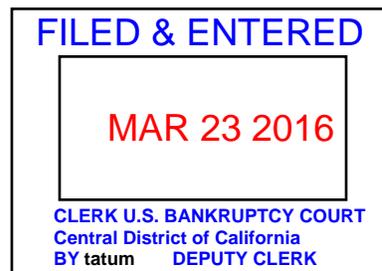


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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
Tae Woon Kim and Chung Hee Kim,
Debtors.
Hee Ok Jung,
Plaintiff,
vs.
Chung Hee Kim, et al.,
Defendants.

Case No. 2:15-bk-13630-RK
Chapter 7
Adversary No. 2:15-ap-01263-RK

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S 12
DISCOVERY MOTIONS FILED IN STATE
COURT BEFORE REMOVAL AND
RENOTICED BY CHAPTER 7 TRUSTEE
BEFORE THIS COURT**

Hearing:
Date: March 29, 2016
Time: 2:30 p.m.
Ctrm: 1675
Place: 255 E. Temple St.
Los Angeles, CA 90012

On March 4, 2016, Dana M. Dorsett and Jeremy Cook, of the law firm of Moon & Dorsett, P.C., Special Counsel ("Special Counsel") for Chapter 7 Trustee, Edward M. Wolkowitz ("Trustee"), filed in this court a "Renotice of Plaintiff's 12 Discovery Motions filed February 5, 2015," ECF 35, seeking to renotice the 12 Discovery Motions originally filed by Plaintiff Hee Ok Jung ("Plaintiff") in the Superior Court of California, County of Los Angeles, Superior Court, noticing such motions for hearing on March 29, 2016 at 2:30

1 p.m. Trustee is now the real party in interest in prosecuting this adversary proceeding,
2 and has substituted in for Plaintiff. A written objection to the “Renotice of Motions,” ECF
3 36, was filed on March 17, 2016 on behalf of Defendants Hyun Park and Jeong Sik Kim
4 by their counsel, S. Young Lim and Jessie Y. Kim, of the law firm of Park & Lim. Trustee
5 by Special Counsel filed a reply to Defendants’ objection, ECF 37, on March 22, 2016.

6 Having reviewed the docket for the above-captioned adversary proceeding,
7 however, the court notes that copies of the 12 Discovery Motions have not been filed with
8 the court in compliance with Local Bankruptcy Rule 9027-1(d). Local Bankruptcy Rule
9 9027-1(d)(1) expressly requires that, “Unless otherwise ordered by the court, the party
10 filing a notice of removal must file with the clerk: . . . (B) A copy of every document on the
11 docket, whether the document was filed by a party or entered by the court.” Local
12 Bankruptcy Rule 9027-1(d)(2) further requires that all such documents must be filed not
13 later than: (A) 30 days after the date of filing of the notice of removal; or (B) if a motion to
14 remand is filed prior to the expiration of such 30-day period, 14 days after entry of an
15 order denying such motion to remand. Plaintiff’s 12 Discovery Motions were not filed with
16 the court by Defendants Tae Woon Kim and Chung Hee Kim with their notice of removal
17 filed on May 18, 2015, ECF 1, nor were they filed within 14 days of the Order denying
18 Plaintiff’s motion for remand entered on July 30, 2015, ECF 19, as required by the local
19 rules. Additionally, copies of Plaintiff’s 12 Discovery Motions were not served on the
20 court as required by Local Bankruptcy Rule 5005-2(d) (“A printed copy of any document
21 filed with the court, either electronically or non-electronically, must be marked ‘Judge’s
22 Copy’ and served on the judge in chambers.”).

23 Despite the obvious technical merit of Trustee’s arguments in his reply to
24 Defendants’ objection to the Renotice of Motions originally filed in the Superior Court that
25 state court rules, not federal court rules, apply to the Motions since the Motions were filed
26 in state court before the action was removed to this court, the situation before this court
27 to which the underlying action was removed remains the same that the Motions are not
28 matters of record on this court’s docket and copies have not been properly served on the

1 presiding judge, even though it may have been Defendants' duty to file copies of all
2 documents filed with the state court in the removed action under the local rules. Special
3 Counsel cannot reasonably expect this court to rule on the merits of Plaintiff's 12
4 Discovery Motions when such motions are not of record in this court since copies have
5 not been filed with this court nor served on this court (i.e., this situation presents a
6 logistical problem of how can the judge rule on motions when no one has provided him
7 with the moving papers either on the court's docket or with courtesy copies, and for some
8 inexplicable reason, this problem did not occur to Special Counsel to the court's
9 annoyance.).

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's 12 Discovery Motions are DENIED WITHOUT PREJUDICE for failure
12 to comply with Local Bankruptcy Rules 5005-2(d) and 9027-1(d).
- 13 2. The hearing scheduled for March 29, 2016 at 2:30 p.m. based on Plaintiff's
14 "Renotice of Hearing" is VACATED from the court's calendar. No appearances
15 are required at the March 29, 2016 hearing.
- 16 3. Since the court denies the Motions without prejudice, Trustee as Plaintiff's
17 successor-in-interest may refile the Motions, which refiling will be post-removal
18 and fully subject to the post-removal application of the applicable federal rules
19 of procedure, including the requirement of a pre-filing discovery dispute
20 conference and stipulation under Local Bankruptcy Rule 7026-1. Trustee is
21 hereby put on notice that the court will not consider the Motions unless and
22 until copies of the Motions filed on the docket of this court for this adversary
23 proceeding and properly served in accordance with this court's local rules of
24 procedure, including service copies on the chambers of the undersigned judge

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presiding in this case pursuant to Local Bankruptcy Rule 5005-2(d). The parties are also put on notice that further transgressions of the local rules of procedure may result in the imposition of sanctions against culpable parties and their counsel. Local Bankruptcy Rule 9011-3(a).

IT IS SO ORDERED.

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Date: March 23, 2016



Robert Kwan
United States Bankruptcy Judge