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NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
GARY MOLL,

Debtor.

Case No. 2:15-bk-28128-RK
Chapter 7

**ORDER REOPENING DEBTOR'S
CHAPTER 7 CASE *SUA SPONTE***

On September 13, 2016 at 3:30 p.m., a hearing in the adversary proceeding entitled *Gary Salzman v. Gary E. Moll, Gary E. Moll and Associates*, Adversary Case No. 16-ap-01057-RK, on Defendant Gary E. Moll's ("Defendant") motion to dismiss the first amended complaint of Plaintiff Gary Salzman ("Plaintiff") came before the undersigned United States Bankruptcy Judge, which is an adversary proceeding related to Debtor's main bankruptcy case with the above-captioned case number. Plaintiff appeared on his own behalf; and Defendant appeared on his own behalf, at this hearing.

At the September 13, 2016 hearing on Defendant's motion to dismiss Plaintiff's first amended complaint in the adversary proceeding, Plaintiff informed the court that he planned to pursue the underlying state law claims asserted in his first amended complaint against Defendant, including, but not limited to, his legal malpractice, negligence and personal injury claims asserted against Defendant, in the state court rather than in the federal district court, and planned to move this court to reopen the closed bankruptcy

1 case of Defendant to pursue his state law claims in the state court while Plaintiff's debt
2 dischargeability claims will remain before this court in the adversary proceeding.
3 Severance of Plaintiff's state law personal injury claims from his debt dischargeability
4 claims was required here because the bankruptcy court does not have authority to
5 determine the personal injury claims in the adversary proceeding under 28 U.S.C. §
6 157(b)(5) without Defendant's consent, which was not given here. Defendant stated,
7 however, at the hearing that he did not oppose the reopening of his closed bankruptcy
8 case for the purpose of allowing Plaintiff to seek stay relief to pursue his state law claims
9 in state court.

10 Plaintiff filed his adversary proceeding on February 5, 2016 before the underlying
11 bankruptcy case was closed on March 29, 2016. Because Plaintiff is a self-represented
12 litigant and needs ancillary relief in the main bankruptcy case for claims related to his
13 adversary proceeding, Defendant does not oppose the reopening of his above-captioned
14 Chapter 7 bankruptcy case for this purpose, and to facilitate litigation of the claims in the
15 adversary proceeding which were pending before the bankruptcy case was closed, which
16 may have been premature in light of the pendency of Plaintiff's adversary proceeding, the
17 court, on its own motion, reopens Defendant's above-captioned Chapter 7 bankruptcy
18 case pursuant to 11 U.S.C § 350(b) for "other cause" to permit Plaintiff to file and serve a
19 motion for relief from the stay to allow him to pursue his state law claims before the state
20 court. See 4 March, Ahart and Shapiro, *California Practice Guide: Bankruptcy*, ¶ 23:198
21 at 23-25 (2015), citing *In re Mulendor*, 741 F.3d 306, 308 (10th Cir. 1984) and *In re*
22 *Weinstein*, 164 F.3d 677, 686 n.7 (1st Cir. 1999) (the court may reopen on its own

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1 motion); see *also*, Federal Rule of Bankruptcy Procedure 4007(b)(case may be reopened
2 without payment of an additional filing fee for the purpose of filing a complaint to obtain a
3 determination of debt dischargeability under this rule).

4 **IT IS SO ORDERED.**

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Date: September 14, 2016



Robert Kwan
United States Bankruptcy Judge