



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

ANTHONY CURTIS WELLS,

Debtor.

Case No. 2:16-bk-18163-RK

Chapter 7

**ORDER DENYING APPLICATION OF
DEBTOR ANTHONY CURTIS WELLS AND
PROPERTY OWNER SAYUN WELLS TO
STAY LISTING AND MARKETING OF THE
PROPERTY FOR SALE PENDING THE
COURT OF APPEAL, SECOND DISTRICT'S
DECISION IN *DUMAS v. WELLS* WITHOUT
PREJUDICE**

Vacated Hearing:

Date: October 31, 2017

Time: 2:30 p.m.

Courtroom: 1675

Pending before this court is the Application of Debtor Anthony Curtis Wells and Property Owner Sayun Wells to Stay the Listing and Marketing of the Property for Sale Pending the Court of Appeal, Second District's Decision in *Dumas v. Wells* ("Application") (Docket No. 81) filed on October 4, 2017. Richard K. Diamond, Chapter 7 Trustee filed an opposition (Docket No. 83) on October 17, 2017. Applicants filed a reply (Docket No. 84) on October 23, 2017. Gary A. Laff, of the Law Offices of Gary A.

1 Laff, represents Applicants. Howard Kollitz and Aaron E. DeLeest, of the law firm of
2 Danning, Gill, Diamond & Kollitz, LLP, represent the Trustee.

3 Having reviewed the Application, the Opposition thereto and related pleadings,
4 the court determines that oral argument on the Application is not necessary, dispenses
5 with oral argument, vacates the hearing on October 31, 2017, takes the Application
6 under submission and denies the Application without prejudice. The reason for the
7 denial of the Application is that although Applicants did not cite any legal authority in
8 support of their Application, the court agrees with the argument of the Trustee that
9 Applicants really seek injunctive relief to enjoin the Trustee's preparations for an
10 eventual sale of the subject property, which is governed by Federal Rule of Bankruptcy
11 Procedure 7001 requiring an adversary proceeding to "obtain an injunction or other
12 equitable relief." See Fed. R. Bankr. P. 7001(7); see also, 10 Resnick and Sommer,
13 *Collier on Bankruptcy*, ¶ 7001.02 at 7001-4 (2017)("Failure to commence an adversary
14 proceeding when seeking the relief of the kind listed in Rule 7001 has resulted in the
15 denial of the motion or dismissal of the proceeding."). The Application does not meet
16 the procedural requirements of an adversary proceeding. See, e.g., Fed. R. Bankr. P.
17 7003 and 7004 (requiring filing of a complaint and service of summons and complaint).
18 Denial is without prejudice because Applicants could commence a proper adversary
19 proceeding for injunctive relief. No appearances are required on October 31, 2017.

20 IT IS SO ORDERED.

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25 Date: October 25, 2017



26 Robert Kwan
27 United States Bankruptcy Judge
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