

FILED & ENTERED

MAR 30 2015

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY milano DEPUTY CLERK

ORDER NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

ENID BANFIELD RICHARDS,
Debtor.

Case No. 2:14-bk-21035-RK

Chapter 7

Adv. No. 2:14-ap-01764-RK

DAVID M. GOODRICH, Chapter 7
Trustee,

ORDER DENYING MOTION OF
DEFENDANT CLAUDON E. RICHARDS
TO DISMISS

Plaintiff,

vs.

ENID BANFIELD RICHARDS; CLAUDON
E. RICHARDS,

DATE: March 31, 2015
TIME: 3:00 p.m.
PLACE: Courtroom 1675
255 East Temple Street
Los Angeles, CA 90012

Defendants.

Pending before the court is the Motion of Defendant Claudon E. Richards ("Defendant"), to Dismiss the adversary proceeding ("Motion"), filed January 2, 2015. ECF 16. Plaintiff David M. Goodrich ("Plaintiff"), Chapter 7 Trustee, filed an Opposition on January 12, 2015, ECF 24, and Defendant filed a Reply on March 10, 2015. ECF 41.

1 The court, having considered the arguments in the Motion, Opposition and Reply,
2 takes the matter under submission, vacates the hearing, and denies the Motion for the
3 reasons set forth below.

4 Defendant's Motion argues primarily that this court "lacks constitutional jurisdiction
5 or standing over [Defendant] to enter judgment against him as he is not a Debtor in any
6 Bankruptcy proceedings and has not filed any Proof of Claims in these proceedings."
7 *Motion* at 4:2-6 (page:line(s)). Defendant is correct that the Supreme Court in *Stern v.*
8 *Marshall*, 131 S.Ct. 2594 (2011) determined that bankruptcy courts cannot enter final
9 judgments in certain "core" proceedings, including this proceeding. See *In re Heller*
10 *Ehrman LLP*, 464 B.R. 348, 352 (N.D. Cal. 2011) ("*Stern v. Marshall* held it was
11 unconstitutional for a bankruptcy judge to enter a final judgment on a debtor's state law
12 counterclaim that was not resolved in the process of ruling on a creditor's proof of claim.")
13 (citing *Stern v. Marshall*, 131 S. Ct. at 2620).

14 Although this court may not enter a final judgment in certain "core" proceedings,
15 such as this one involving state law fraudulent transfer claims as recognized in *Stern v.*
16 *Marshall*, the Supreme Court recently approved an alternative for bankruptcy courts to
17 exercise jurisdiction over claims for which they cannot enter a final judgment. *Executive*
18 *Benefits Insurance Agency v. Arkison*, 134 S. Ct. 2165 (2014). There, the Supreme
19 Court held that "a fraudulent conveyance claim asserts that property that should
20 have been part of the bankruptcy estate and therefore available for distribution to
21 creditors pursuant to Title 11 was improperly removed. That sort of claim is
22 'related to a case under title 11' under any plausible construction of the statutory
23 text. . . Accordingly, because these *Stern* claims fit comfortably within the category
24 of claims governed by § 157(c)(1), the Bankruptcy Court would have been
25 permitted to follow the procedures required by that provision, *i.e.*, to submit
26 proposed findings of fact and conclusions of law to the District Court to be
27 reviewed *de novo*." *Id.* at 2174 (citations omitted). Under this procedure, this court
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1 has jurisdiction to hear and determine the subject "core" claims subject to de novo review
2 by the district court. *Id.*

3 Accordingly, the court orders as follows:

- 4 1. Defendant's Motion to Dismiss is DENIED.
- 5 2. The hearing on the Motion currently set for March 31, 2015 at 3:00 p.m. is
6 vacated.
- 7 3. Defendant is ordered to serve and file his answer within fourteen days from the
8 entry of this order.
- 9 4. A status conference in this adversary proceeding is set for June 2, 2015 at 1:30
10 p.m. in Courtroom 1675, Roybal Federal Building, 255 East Temple Street, Los
11 Angeles, California. The parties are required to conduct a meeting of counsel
12 and file a joint status report pursuant to Local Bankruptcy Rules 7016-1 and
13 7026-1.

14 IT IS SO ORDERED.

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23 Date: March 30, 2015
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Robert Kwan
United States Bankruptcy Judge