

FILED & ENTERED

AUG 23 2016

CLERK U.S. BANKRUPTCY COURT
Central District of California
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NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re:

LYDIA CHO,

Debtor.

Case No. 2:16-bk-19089-RK

Chapter 7

Adv. No. 2:16-ap-01307-RK

LYDIA CHO,

Plaintiff,

v.

MARMAY INC.,

Defendant.

**ORDER REMANDING THIS REMOVED
UNLAWFUL DETAINER ACTION TO
STATE COURT**

By notice of removal filed on July 8, 2016, Debtor Lydia Cho ("Debtor") removed an unlawful detainer action entitled *Marmay, Inc. v. Byung Kim* (Case No. 30-2016-00833678-CL-UD-NJC) pending before the Superior Court of California, County of Orange ("Unlawful Detainer Action") to this court, which action was entered on this court's docket as an adversary proceeding. On August 16, 2016 at 1:30 p.m., a status conference regarding the removal of the Unlawful Detainer Action to this court was conducted by the undersigned United States Bankruptcy Judge. No appearances were made by or on behalf of Debtor and Marmay, Inc. at the status conference on August 16,

1 2016. Although the case docket for this adversary proceeding does not reflect any proof
2 of service of the notice of removal on the responding party, Marmay, Inc., the plaintiff in
3 the unlawful detainer action, the case docket reflects that Debtor was served with the
4 court's order for status conference filed on July 11, 2016, requiring all parties to appear
5 for the status conference set for August 16, 2016. Despite the order for status
6 conference, Debtor failed to appear at the status conference.

7 By order entered on July 26, 2016, the court dismissed the underlying bankruptcy
8 case of Debtor. Having determined that the underlying bankruptcy case of Debtor has
9 been dismissed, the court determines that there is no bankruptcy purpose for this court to
10 hear the removed unlawful detainer action which raises only noncore state law claims
11 and that there is no longer any bankruptcy case that is being administered. See, 11
12 U.S.C. § 349(b); *Nash v. Kester (In re Nash)*, 765 F.2d 1410, 1414 (9th Cir. 1985)(noting
13 the legislative history for 11 U.S.C. § 349(b) that "[t]he basic purpose of the subsection is
14 to undo the bankruptcy case, as soon as practicable, and to restore all property rights to
15 the position in which they were found at the commencement of the case."), *citing*, S. Rep.
16 No. 989, 95th Cong., 2nd Sess. 49, *reprinted in*, 1978 U.S. Code Cong. & Adm. News
17 5787, 5835. Accordingly, pursuant to 28 U.S.C. § 1452(b), the court on its own motion
18 remands this removed Unlawful Detainer Action, now an adversary proceeding before
19 this court, to the Superior Court of California, County of Orange. *In re Bisno*, 433 B.R.
20 753, 758 (Bankr. C.D. Cal. 2010).

21 **IT IS SO ORDERED.**

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24 Date: August 23, 2016



Robert Kwan
United States Bankruptcy Judge