

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:	:	
	:	
WASHINGTON MUTUAL, INC., et al.,	:	Bankruptcy Case No. 08-12229 (MFW)
	:	
Debtors.	:	
_____	:	
ALICE GRIFFIN,	:	
	:	
Appellant,	:	
	:	
v.	:	Civil Action No. 19-2072-RGA
	:	
WMI LIQUIDATING TRUST,	:	
	:	
Appellee.	:	

ORDER DENYING MOTION TO WITHDRAW REFERENCE

Before me is a motion to withdraw reference. (D.I. 1). It has been fully briefed. (*Id.*, D.I. 4, D.I. 7). Unlike the few other motions to withdraw reference I have seen, which have been based on purported rights to a jury trial, this motion is a non-mandatory motion. I may withdraw the reference “for cause shown.” 28 U.S.C. § 157(d). The basis for the motion is that there is a motion pending in the Bankruptcy Court for a final decree, which would close the bankruptcy case. It is currently scheduled to be heard on December 19, 2019, at 2:00 p.m. (B.D.I. 12674).¹ It has been objected to by Claimant Griffin, who also brings this motion. The purported cause is that the Bankruptcy Court, if it closes the case, may equitably moot a pending appeal and/or cost the Claimant \$2,334 or more to petition the Bankruptcy Court to reopen the case if she is successful on her pending appeal. (D.I. 1 at 7). The logic does not hold up. It would justify

¹ The “B.D.I.” citation is to the docket in the Bankruptcy Court in case no. 08-bk-12229.



removing any bankruptcy reference at any time, as adverse bankruptcy court rulings are always going to put a burden on the party that loses the ruling. But, as Claimant concedes, the law “intend[s] to have bankruptcy proceedings adjudicated in bankruptcy court, unless rebutted by a contravening policy.” (*Id.* at 3 n.3).

Claimant relies upon *In re Pruitt*, 910 F.2d 1160, 1168 (3d Cir. 1990), for a five-factor test as to whether cause exists to withdraw a reference. None of the five factors supports withdrawal. For example, uniformity in the bankruptcy process is promoted by having bankruptcy judges decide routine bankruptcy issues such as whether to close a case or not. Trying to get me to step into this case at this point is forum shopping. What Claimant wants me to do is not to expedite the bankruptcy process, but to slow it down. The timing of the motion is essentially last minute, and now has resulted in another motion from Claimant, this one for me to expedite my decision on the motion to withdraw reference. Claimant’s attempt to withdraw reference may under some circumstances save her \$2,334, but it is, I am sure, much more economical overall to litigate these issues before a court with relevant experience.

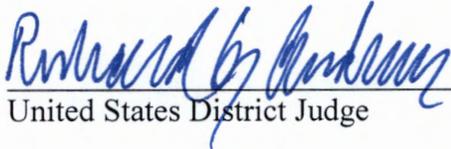
I note that the underlying Bankruptcy Court case was filed more than ten years ago, and it has been handled by the same judge for the entire time. There have now been more than 12,000 filings in the case. The bankruptcy judge is much better positioned than I am to judge the merits of Claimant’s objections to the motion for a final decree.

There seems to be a suggestion by Claimant that the bankruptcy judge has already made her mind up on the motion for a final decree. I read the transcript of the hearing which is the basis for Claimant’s suggestion. (D.I. 4-3). I read the bankruptcy judge’s remarks to be a representation that if such a motion were filed, it would be promptly scheduled. (*Id.* at 10-13). Nothing more.

I also note Claimant's alternative request for mandamus relief. (D.I. 1 at 11). Mandamus is an extraordinary remedy, and there is no basis for it here.

Thus, the motion to withdraw reference (D.I. 1) is **DENIED**. The motion to expedite (D.I. 9) is **DISMISSED** as moot.

IT IS SO ORDERED this 9th day of December 2019.



United States District Judge