

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In Re:)	
)	JUDGE RICHARD L. SPEER
Rommel/Alejandra Romero)	
)	Case No. 03-3241
Debtor(s))	
)	(Related Case: 02-30172)
Bruce C. French, Trustee)	
)	
Plaintiff(s))	
)	
v.)	
)	
Carlos/Rachel Tobar)	
)	
Defendant(s))	

DECISION AND ORDER

In the instant matter, the Plaintiff, in his capacity as trustee of the Debtors’ bankruptcy estate, seeks to collect an account receivable from the Defendants. After conducting a PreTrial in this matter, the Court issued an Order wherein, as a condition for this Court hearing this adversary proceeding, it was stated that the “Defendants shall file an Amended Answer admitting to the Jurisdiction of this Court.” In the amended answer submitted pursuant to this Order, the Defendants, in paragraph one, admitted to the jurisdiction of the Court; however, dissimilarly, paragraph two denied that the instant adversary case was a “core proceeding.”

Title 28, section 1334(b) confers jurisdiction upon the district courts of the United States to hear all “civil proceedings arising under title 11, or arising in or related to cases under title 11.” A bankruptcy court’s jurisdiction to hear such matters is, in turn, derived from 28 U.S.C. § 157(a)

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which provides that a “district court may provide that . . . any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.” As it pertains thereto, the district court for the northern district of Ohio has issued a general order of reference.

The scope of this Court’s authority to hear and adjudicate those matters contained in paragraph (a) of § 157 is set forth in paragraphs (b) and (c) of this provision. Under paragraph (b) of § 157, this Court is authorized to enter final orders and judgments, subject only to review by way of appeal under 28 U.S.C. § 158, for matters which are determined to be “core proceedings.” On the other hand, paragraph (c) provides that for those matters which are not “core proceedings,” but which are “otherwise related to a case under title 11,” this Court is to simply “submit proposed findings of fact and conclusions of law to the district court.” As these distinctions pertain to the overall grant of jurisdictional authority set forth under paragraph (a), core proceedings generally relate to those matters, as enumerated in paragraph (a), “arising under” or “arising in” a bankruptcy case – i.e., those matters which would have no existence outside of bankruptcy. *Braniff Int’l Airlines v. Aeron Aviation Res. Holdings II, Inc. (In re Braniff Int’l Airlines)*, 159 B.R. 117, 125 (E.D.N.Y.1993). By comparison, those “related to” matters as referred to in both paragraphs (a) and (c) of § 157, and over which this Court lacks the authority to enter final orders and judgments, generally encompass a state or federal claim which arises between parties within a bankruptcy proceeding, but which could otherwise survive outside of bankruptcy. *In re Malden Mills Inds., Inc.*, 277 B.R. 449, 454 (Bankr. D.Mass.2002).

In applying this statutory framework to this case, the Defendants, by admitting to the jurisdiction of this Court, but denying that this is a “core proceeding,” clearly consider the instant matter a noncore, but related proceeding. As such, the Defendants have clearly questioned this Court’s authority to enter final orders and judgments in this matter. Given, therefore, this position, the Court considers it in the best interest of the Parties involved to transfer this adversary proceeding

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to the district court so as to ensure that no issues arise with respect to this Court's jurisdiction.

Accordingly, it is

ORDERED that this Adversary Case be, and is hereby, **transferred** to the United States District Court for the Northern District of Ohio, Western Division.

Dated:

Richard L. Speer
United States
Bankruptcy Judge