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FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
99 JUN -3 PM 3:47
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:)	Case No. 98-17666
)	
MADONNA HALL, INC.,)	Chapter 11
)	
Debtor.)	Judge Pat E. Morgenstern-Clarren
)	
)	
MULTI-CARE SERVICES, INC.,)	Adversary Proceeding No. 98-1370
)	
Plaintiff,)	
)	
v.)	<u>MEMORANDUM OF OPINION</u>
)	
SCIDEM, INC., et al.,)	
)	
Defendants.)	

When the Debtor Madonna Hall, Inc. filed its petition under Chapter 11 of the Bankruptcy Code, the Debtor was a party to a state court lawsuit titled *Multi-Care Services, Inc. dba Multi-Care Management v. Scidem, Inc. and Madonna Hall*. The Debtor initiated this Adversary Proceeding by filing a Notice of Removal of that lawsuit to this Court. (Docket 1).

Other parties to the state court case filed these motions:

1. Motion by Defendant Scidem, Inc. to Remand and in the Conjunctive, for Relief from Stay; and
2. Motion by Plaintiff Multi-Care Services, Inc. to Remand and for Relief from Stay.

(collectively, "the Motions"). (Docket 4, 9). The Motions are opposed by the Debtor and the State of Ohio. (Docket 12, 13). The movants filed reply briefs with leave of court. (Docket 14, 16, 17, 18).

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Following oral argument on the Motions, the Court referred all matters in dispute among the parties to mediation. (Docket 20). The mediation did not result in any agreements and so the Motions were returned to the Court's docket. (Docket 22). For the reasons stated below, the Motions are granted.

JURISDICTION

This Adversary Proceeding is before the Court under 28 U.S.C. § 157(a) and General Order No. 84 entered on July 16, 1984 by the United States District Court for the Northern District of Ohio. Determinations regarding remand and relief from stay are core proceedings under 28 U.S.C. § 157(b). *See also* Fed. R. Bankr. P. 9027.

THE PARTIES

The Debtor, Madonna Hall, Inc., is an Ohio not-for-profit corporation that operates a nursing home located at 1906 East 82d Street, Cleveland, Ohio (the real property is referred to as "the Property"). The Debtor claims to own the rights to operate the nursing home facility.

Scidem, Inc. ("Scidem") is a for-profit corporation that owns the Property. Scidem also claims to own the rights to operate the nursing home.

Multi-Care Services, Inc. ("Multi-Care") manages the nursing home. Multi-Care claims that it is entitled to purchase the rights to operate the nursing home under an agreement entered into with Scidem.

The State of Ohio ("the State") is a party in interest based on the Debtor's status as a not-for-profit corporation. The State Attorney General has an obligation to protect charitable trust assets and beneficiaries.

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THE DISPUTE OVER OWNERSHIP OF THE OPERATING RIGHTS

The dispute over ownership of the operating rights to the nursing home beds is the subject of pre-petition litigation among these parties (and others) and is also the crux of this Chapter 11 case. As noted above, both Scidem and the Debtor claim ownership. The Debtor listed the operating rights to the nursing home as an asset in its bankruptcy schedules with a value of \$2,000,000.¹ The parties agree that this is the only asset of any value claimed by the Debtor.

These are the undisputed facts that give rise to the competing claims, as set forth in the parties' briefs:²

In 1970, Scidem purchased from the Catholic Diocese of Cleveland a nursing home known as Madonna Hall, including the Property and a license to operate the nursing home. That same year, the Ohio Department of Health issued a license in the name of "Scidem, Inc." to operate the nursing home. Scidem operated the facility from 1970 through 1974 under the name "Madonna Hall." In 1972, the principals of Scidem formed "Madonna Hall, Inc.," a not-for-profit corporation, which is the Debtor. The Ohio Department of Health then reissued the license to operate the nursing home in the name "Madonna Hall."

In 1974, Scidem and the pre-petition Debtor entered into a 20-year Net Lease Agreement under which the pre-petition Debtor would use the Property to operate a nursing home. At some

¹ See Amended Schedule B. (Docket 41).

² Other facts are disputed. The parties also dispute the legal significance of some of the facts. The Court is not in this Memorandum of Opinion making any finding of fact that is intended to be binding other than on the issue of whether this Adversary Proceeding should be remanded and the stay lifted.

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point during that lease term, the pre-petition Debtor asserted ownership over the license to operate the nursing home.

As the years went on, the pre-petition Debtor ran into financial difficulties. In 1994, Scidem entered into a Management Agreement with Multi-Care (the "Agreement"). The Agreement states, among other things, that Multi-Care has the right to administer, manage, and operate the nursing home and also states that Multi-Care has a right of first refusal to purchase any and all assets of the nursing home, including the Property and the license to operate the beds. The pre-petition Debtor affirmed some, but not all, of this Agreement. When Multi-Care attempted to exercise the right of first refusal in 1996, the dispute between Scidem and the pre-petition Debtor over who owns the license came to a head.

THE STATE COURT LAWSUIT

On October 10, 1996, Multi-Care filed a complaint with a jury demand in the Court of Common Pleas, Cuyahoga County, Ohio, Civil Action No. 316776. (Docket 1, attachment). The complaint names Scidem and "Madonna Hall"³ as defendants. The complaint alleges that Scidem purchased the Property and the right to operate the nursing home located on the Property from the Catholic Diocese of Cleveland in 1970.⁴ In 1974, Scidem entered into a 20-year lease

³ Part of the legal dispute both in the bankruptcy case and the state court lawsuit stems from variations on this name used in different documents. The definitions used in the state court lawsuit also inadvertently contribute to some of the confusion in the bankruptcy context. Nevertheless, the parties agree that the defendant in the state court lawsuit is the pre-petition Debtor. For ease of reference, that defendant will be referred to in this section as "the Debtor."

⁴ The Complaint is lengthy. This recitation is a summary only for the purpose of deciding the Motions.

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with the Debtor under which the Debtor agreed to operate the nursing home for the benefit of Scidem.

The Complaint goes on to allege that Scidem and Multi-Care entered into the Agreement in 1994, that Multi-Care took all necessary steps to exercise its right of first refusal to purchase all of the nursing home assets, but that the Debtor denied that Multi-Care could have validly done so in part because the events that allegedly triggered that right did not take place.

The Complaint states these five counts:

against Scidem, for breach of contract and for specific performance under the Agreement (Count One);

against the Debtor, for tortious interference with business relationship (Count Two);

against Scidem and the Debtor, for unlawful civil conspiracy (Count Three);

against Scidem, for fraud (Count Four); and

against Scidem, for management fees due on account (Count Five).

The state court docket sheet indicates that Scidem filed an answer and asserted counterclaims against Multi-Care. (Docket 4, Exh. O). It also appears that Scidem made cross-claims against the Debtor; although the basis for these claims is not part of the record, Scidem has stated its position in oral argument that the Debtor does not have any ownership rights to the nursing home beds. According to the docket, the Debtor filed an answer and asserted a counterclaim against Multi-Care and a cross-claim against Scidem.⁵

⁵ This pleading is not in the record.

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As the case progressed, other parties were brought in. Four members of the Debtor's Board of Trustees became third-party defendants through claims raised by Scidem and the State came in on the Debtor's motion. The State then filed counterclaims against Multi-Care and cross-claims against Scidem. (Civil Action No. 316776 is referred to in its entirety as "the State Court Action"). Before the bankruptcy filing, the parties had completed most of the discovery, the state court judge had ruled on a preliminary injunction issue, and a trial date of January 19, 1999 was set.

The Debtor filed its Chapter 11 case on October 8, 1998. The state court judge canceled the trial date based on the automatic stay provisions of 11 U.S.C. § 362. (Docket 4, Exh. O). On October 27, 1998, the Debtor removed the State Court Action to this Court. Scidem and Multi-Care each filed a Statement denying that the Adversary Proceeding is a core proceeding and refusing to consent to the entry of final orders by a bankruptcy judge. (Docket 2, 3). These Motions followed.

Additional facts are set forth below.

ISSUES

1. Does the Court have jurisdiction over the State Court Action?
2. If there is jurisdiction, should the Court nevertheless remand the State Court Action to the state court?; and
3. If the State Court Action is remanded, should the automatic stay be lifted to permit the parties to proceed to judgment against the Debtor?

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DISCUSSION

I.

The Debtor removed the State Court Action to this Court under 28 U.S.C. § 1452 and Federal Rule of Bankruptcy Procedure 9027. Multi-Care and Scidem, in similar arguments, move to remand under 28 U.S.C. § 1452(b) and for relief from stay to continue the State Court Action. They argue that: (1) the removal was procedurally defective; (2) the removal of the State's claims against Scidem and Multi-Care is improper under § 1452(a); and (3) all of the equitable factors to be considered under § 1452(b) favor a remand. In the event of remand, they request relief from stay to litigate the State Court Action. In opposition, the Debtor claims that the Adversary Proceeding is a core matter over which the Court should retain jurisdiction. The State supports the Debtor's position. The other parties to the State Court Action have not appeared in this Court or taken a position on this issue. The parties' arguments are set forth in greater detail below.

II.

Scidem argues, very briefly, that the Notice of Removal was not properly filed in the Bankruptcy Court and should, instead, have been filed with the District Court. (Docket 4 at 11). Bankruptcy Rule 9027(a)(1) provides that the notice of removal "shall be filed with the clerk for the division and district within which is located the state or federal court where the civil action is pending." Fed. R. Bankr. P. 9027(a)(1). The clerk referred to in Rule 9027(a)(1) is the bankruptcy clerk. Fed. R. Bankr. P. 9001(3). As a result, the Notice was properly filed.

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III.

Section 1452 (a) of Title 28 provides:

(a) A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

There must, therefore, be bankruptcy jurisdiction under 28 U.S.C. § 1334 before there can be removal jurisdiction under §1452.

Section 1334 provides that the district courts have “original and exclusive jurisdiction of all cases under title 11” and “original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.” 28 U.S.C. § 1334(a) and (b). To come within the jurisdictional grant of § 1334, “a proceeding need only be ‘related to’ a case under title 11.” *Sander's Confectionery Prods., Inc. v. Heller Financial, Inc.*, 973 F.2d 474, 482 (6th Cir. 1992). The Debtor argues that the State Court Action should remain here because the core issue of whether the Debtor owns the operating rights to the nursing home beds can be properly and economically determined by this Court. Multi-Care and Scidem deny that the State Court Action is a core proceeding. The State Court Action does not, however, have to be shown to be a core proceeding before removal jurisdiction can exist. Such jurisdiction also exists under § 1334 if a proceeding is related to the Chapter 11 case, which is a different standard.

A proceeding is related to a case under title 11 if “the outcome of that proceeding could conceivably have any effect on the estate being administered in bankruptcy.” *In re Dow Corning Corp.*, 86 F.3d 482, 489 (6th Cir. 1996), *quoting with approval Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3^d Cir. 1984). Related to jurisdiction exists “if the outcome could alter the debtor's

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rights, liabilities, options or freedom of action . . . and which in any way impacts upon the handling and administration of the bankrupt estate.” *Id.* Despite this broad jurisdictional grant, “situations may arise where an extremely tenuous connection to the estate would not satisfy the jurisdictional requirement.” *In re Dow Corning Corp.* at 489, quoting *Robinson v. Michigan Consol. Gas Co., Inc.*, 918 F.2d 579, 584 (6th Cir. 1990). Suits between non-debtor parties may come within the related to jurisdiction, but only if the suit has an effect on the bankruptcy estate. *Celotex Corp. v. Edwards*, 514 U.S. 300 (1995). The mere existence of common questions of fact does not give rise to related to jurisdiction. *In re Dow Corning Corp.*

Bankruptcy Rule 9027(a)(1) provides that "a copy of all process and pleadings" is to accompany the notice of removal. Fed. R. Bankr. P. 9027(a)(1). Debtor's Notice of Removal indicates that "[a] copy of the original Complaint is attached pursuant to Bankruptcy Rule 9027(a)(1). Copies of all other pleadings will be included under separate cover since they are so numerous." The record does not indicate that any other pleadings were filed. The state court complaint, together with the docket filed as an exhibit to Scidem's Motion, are, then, the only evidence of the State Court Action. With this limited information, this Court is unable to determine the basis for all of the causes of action asserted by the various parties against each other. Nevertheless, it is clear from the complaint and the statements of counsel that the State Court Action involves some causes which come within the scope of § 1334 bankruptcy jurisdiction, including the claims which Multi-Care and Scidem assert against the Debtor and the Debtor asserts against them. Resolution of those claims certainly could alter the Debtor's "rights, liabilities, options or freedom of action" and could "have an impact on the handling and administration of the bankruptcy estate" because they seek damage awards against the Debtor

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and challenge the Debtor's ownership of the license. As a result, they come within the scope of § 1334 related to jurisdiction.

The fact that these claims are part of the State Court Action does not in and of itself confer bankruptcy jurisdiction over all other matters in that lawsuit. To the contrary, various parties have asserted claims in the State Court Action which are not related to the Chapter 11 case. The parties have not parsed out the jurisdictional issues on a claim by claim basis. At a minimum, however, the claims between Scidem and Multi-Care; Scidem's claims against individual members of the Debtor's Board of Trustees; and the claims by the State against Scidem and Multi-Care⁶ have not been shown to be related to this bankruptcy case. These are claims by third parties against third parties and there is no evidence or argument that resolution of those claims could conceivably have any effect on the bankruptcy estate. Removal of the unrelated claims under § 1452 (a) is not, therefore, appropriate because there is no underlying bankruptcy jurisdiction under § 1334. Those claims will be returned to the state court for lack of jurisdiction.

⁶ Scidem and Multi-Care also argue that removal was improper because the State Court Action includes claims by the State to enforce its police and regulatory powers which cannot be removed under the terms of 28 U.S.C. § 1452(a). The State counters that the Debtor did not remove the entire State Court action, but instead removed only a "claim" under § 1452(a), which is "the claim of disputed ownership of the operating rights and/or license" (Docket 12 at 3). In oral argument, the Debtor affirmed that it intended to remove the State Court Action in its entirety. In light of the Debtor's disclaimer, the Court will not address that part of the State's argument. The State's alternative position is that it does not object to this Court's exercise of jurisdiction over its claims or will hold its claims in abeyance until the other issues are decided here. A decision on that issue is not necessary in light of the conclusion that there is no jurisdiction under 11 U.S.C. § 1334.

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IV.

Even where bankruptcy jurisdiction exists, Congress has provided that in some instances it is more appropriate for removed claims to be heard in state court. Scidem and Multi-Care rely on this principle when they argue that, regardless of the existence of federal jurisdiction, the State Court Action should be remanded on equitable grounds under 28 U.S.C. § 1452(b):

(b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. An order entered under this subsection remanding a claim or cause of action, or a decision not to remand, is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title.

Courts frequently look to these factors in deciding whether to remand a case to a state court: (1) forum non conveniens; (2) whether the entire action should be tried in the same court; (3) that a state court is better able to resolve issues of state law; (4) the expertise of the particular court; (5) judicial economy; (6) prejudice to the involuntarily removed parties; (7) comity; (8) the possibility of inconsistent results; and (9) the existence of a right to jury trial. *See Browning v. Navarro*, 743 F.2d 1069 (5th Cir. 1984); *Williams v. Shell Oil Co.*, 169 B.R. 684 (S.D. Calif. 1994); *Murray v. Business On-Line Sys., Inc. (In re Revco D.S., Inc.)*, 99 B.R. 768 (N.D. Ohio 1989).

Several of these considerations are relevant to the question of whether the remaining parts of this Adversary Proceeding should be remanded, even though there is federal jurisdiction. There are eight parties to the State Court Action and they have asserted various claims, cross claims, and counterclaims. This Court does not have jurisdiction with respect to those causes of action which are not related to the Chapter 11 case. Moreover, it appears that the entire State

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Court Action as it is currently postured should be tried in the same court and that parties would be prejudiced by the possibility of inconsistent results if it is not. The State Court Action was pending for two years before its removal to this Court. With discovery substantially complete, the state court had set a trial date. That court also conducted a lengthy hearing and ruled on a preliminary injunction request. Although it does not appear that the issue at the injunction hearing was directly relevant to the ownership question, there were nonetheless some related points.⁷ The issues raised in the State Court Action are all based on state law. As a final point, some parties to the State Court Action asserted a right to a jury trial in their pleadings. (Docket 4, Exh. O). The jury claims do not appear to have been challenged in the State Court Action. Bankruptcy courts in this district have jurisdiction to preside over jury trials with the consent of all parties. *See* 28 U.S.C. § 157(e); Local Bankruptcy Rule 9015-1. Based on the statements of counsel at oral argument, Scidem and Multi-Care decline to consent to the exercise of such jurisdiction. As a consequence, any properly removed cause of action where the party has a jury trial right would have to be heard by the district court. All of these considerations weigh in favor of remanding the State Court Action to the state court.

The Debtor's sole argument against remand is its assertion that the issue of the ownership of the operating rights is raised in the State Court Action, is a core proceeding, and can be decided by this Court in the context of the Adversary Proceeding. The Debtor has not explained which count of the State Court Action raises that issue; instead, the Debtor (and the State) argue

⁷ Scidem and Multi-Care also argue that the state court judge had ruled that the preliminary injunction testimony would be admissible at trial, which they say favors remand under the concept of judicial economy. The state court judge, however, vacated her order merging the hearing and trial testimony. (Docket 4, O).

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that the ownership issue is a "threshold issue" that must be decided before the state court complaint can be resolved. As noted above, Scidem and Multi-Care deny that the State Court Action is a core proceeding.⁸

A non-exhaustive list of core proceedings is set forth in 28 U.S.C. § 157(b)(2). Core proceedings are "proceedings that involve a cause of action created or determined by a statutory provision of title 11 . . . and . . . those that by their very nature, could arise only in bankruptcy cases. Conversely, if the proceeding does not invoke a substantive right created by federal bankruptcy law and is one that could exist outside of the bankruptcy, then it is not a core proceeding." *Michigan Employment Security Commission v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1144 (6th Cir. 1991) (citations omitted). Analysis of core status involves looking at both the form and the substance of the proceeding. *Wood v. Wood (In re Wood)*, 825 F.2d 90 (5th Cir. 1987). Moreover, a claim by claim review is necessary to determine whether there is a core proceeding. *Halper v. Halper*, 164 F.3d 830 (3d Cir. 1999).

The Debtor argues that the Adversary Proceeding issue is whether the Debtor owns the nursing home operating rights, which is a dispute over estate property, which is in turn a core proceeding. Multi-Care and Scidem deny this. All parties cite *In re Braeview Manor, Inc.*, 151 B.R. 448 (Bankr. N.D. Ohio 1993) ("Braeview I") and *Braeview Manor, Inc. v. Somani (In re*

⁸ The question of whether the State Court Action is a core proceeding is relevant to the scope of this Court's authority to determine that matter. A bankruptcy judge may hear and determine all cases under Title 11 and all core proceedings and may enter appropriate judgments and orders. 28 U.S.C. § 157(b)(1). With respect to non-core related matters, the bankruptcy court may only enter orders and judgments with the consent of the parties. 28 U.S.C. § 157(c)(2). In the absence of consent, the bankruptcy court has jurisdiction to hear a related matter and submit proposed findings of fact and conclusions of law to the district court. The district court then enters the final order or judgment. 28 U.S.C. § 157(c)(1).

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Braeview Manor, Inc.), 1995 WL 26735 (Bankr. N.D. Ohio 1995) ("Braeview II") in support of their positions. While some of the underlying facts are quite similar, the posture of those cases was different from the present case. The Braeview cases involved a contest between a chapter 11 debtor and others over the ownership of operating rights to a nursing home. Neither decision, however, involved a state court lawsuit removed to federal court with a dispute over remand. Instead, Braeview I was decided in the context of a motion for relief from stay, which is a core proceeding under 28 U.S.C. §157 (b)(2)(G). Braeview II was an adversary proceeding between the debtor and parties who asserted competing claims to the nursing home operating rights. The bankruptcy court found that it had core jurisdiction to determine whether a newly-enacted state statute that had the effect of determining the ownership of the disputed property (and only the disputed property) violated the automatic stay.

Unlike the Braeview cases, where the disputes originated in the bankruptcy court, the focus here must be on the causes of action as they were filed in the state court. While the Debtor may well be right that the ownership issue must be decided as a predicate to resolving the state law claims, that does not transform the state law claims into core proceedings.⁹ They do not invoke a substantive right created by bankruptcy law and, instead, clearly exist outside of bankruptcy. The fact that an issue is important to the Debtor—as this one certainly is—does not make it a core proceeding. And even if it were, the existence of a core proceeding is at best a factor to be considered in looking at the overall situation. The Debtor's argument, therefore, does not tip the scales against remand. Based on the relevant equitable considerations, the

⁹ The Court notes that the same or similar facts may be part of a core proceeding in a different context. See *Benedor Corp. v. Conejo Enters., Inc. (In re Conejo Enters., Inc.)*, 96 F.3d 346 (9th Cir. 1996). See also *Atassi v. McLaren (In re McLaren)*, 990 F.2d 850 (6th Cir. 1993).

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properly removed portions of the State Court Action will be remanded to the state court under 28 U.S.C. § 1452(b).¹⁰

IV.

The remand returns the State Court Action to the state court but it does not automatically give any party the authority to go forward at this time against the Debtor in that forum. To accomplish that result, the automatic stay put in place by 11 U.S.C. § 362 must be lifted.¹¹ Multi-Care and Scidem request relief from stay for cause to continue litigating the State Court Action against the Debtor. They argue that granting such relief will not greatly prejudice the Debtor or its estate, whereas continuation of the stay will impose a substantial hardship on them. They do not request relief to enforce any judgment which the state court might render against the Debtor. The State opposes the request in general; the Debtor did not specifically address it.

Section 362(d)(1) provides that relief from stay shall be granted for cause, including lack of adequate protection. The Bankruptcy Code does not define "cause" beyond the reference to adequate protection. The decision as to whether relief should be granted is, therefore, left to the sound discretion of the court based on the facts of each case. *Laguna Assocs. Ltd. Partnership v. Aetna Casualty & Surety Co. (In re Laguna Assocs. Ltd. Partnership)*, 30 F.3d 734 (6th Cir. 1994). The party requesting relief has the burden of proof on the issue of the debtor's equity in the property and the debtor has the burden of proof on all other issues. 11 U.S.C. § 362(g).

¹⁰ Scidem and Multi-Care also argue that grounds exist for mandatory abstention under 28 U.S.C. § 1334(c)(2). The mandatory abstention provisions of that statute apply to removed cases. *Robinson v. Michigan Consol. Gas Co.*, 918 F.2d 579 (6th Cir. 1990). This issue is moot in light of the decision on remand.

¹¹ Of course, there is no automatic stay that protects the non-debtors on remand.

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Cause for granting relief "may exist if the equities in a particular case dictate that a lawsuit . . . should proceed in a forum other than the bankruptcy court for the purpose of liquidating the claim on which the lawsuit is premised." *In re Cummings*, 221 B.R. 814, 818 (Bankr. N.D. Ala. 1998). In deciding whether cause exists in such cases, it is appropriate to consider: (1) whether relief will result in complete or partial resolution of the issues; (2) lack of connection or interference with the bankruptcy case; (3) whether the proceeding involves the debtor as a fiduciary; (4) any specialized expertise of the non-bankruptcy forum; (5) costs of defense or other burdens to the debtor or the estate; (6) whether the action primarily involves third parties; (7) whether litigation in the other forum will prejudice the interests of creditors; (8) whether the judgment claim arising from the action is subject to equitable subordination; (9) whether the other proceeding will result in an avoidable judicial lien; (10) the interests of judicial economy; (11) whether the parties are ready for trial in the other forum; and (12) the impact of the stay and a balance of the harm. *Sonnax Indus., Inc. v. Tri Component Prods. Corp.* (*In re Sonnax Indus. Inc.*), 907 F.2d 1280 (2d Cir. 1990). *See also, In re Cummings.*

Some, but not all, of these factors are relevant in this case. As noted above, the State Court Action involves eight parties and this Court does not have jurisdiction over all of the claims which are asserted in it. Relief from stay will allow a complete resolution of all claims and will avoid duplicative litigation. The interests of judicial economy, therefore, favor granting such relief. The State Court Action was essentially ready for trial when the Chapter 11 case was filed and there is no question that the state court can readily proceed to trial. There is no dispute that the claims which Scidem and Multi-Care assert against the Debtor in the State Court Action, and Debtor's claims against those parties, must be resolved for this Chapter 11 case to move

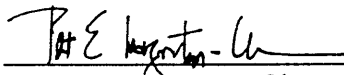
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forward. The only issue is the appropriate forum for that resolution. The Debtor will incur costs in litigating these matters regardless of the forum and it does not appear that the interests of creditors will be prejudiced by allowing Scidem and Multi-Care to proceed in state court. The State and the Debtor have not identified any harm that will befall the Debtor if the stay is lifted to permit the State Court Action to go forward. The movants have already acknowledged that if there is a judgment in their favor, any execution on that judgment must take place in this Court so long as the bankruptcy case is pending and not by their own action, either independently or through the state court. Based on the facts of this case and a consideration of the relevant factors, the Court finds that cause exists for granting Scidem and Multi-Care relief from stay solely to litigate the claims that have already been filed against the Debtor in the State Court Action.

CONCLUSION

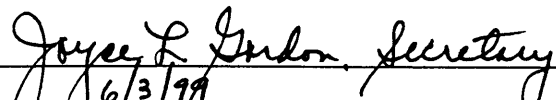
For the reasons stated above, the Motions of Scidem and Multi-Care to Remand and for Relief from Stay are granted, with the State Court Action being remanded to the Court of Common Pleas, Cuyahoga County, Ohio. The automatic stay is lifted solely to permit the parties to litigate the claims that have already been filed against the Debtor in the State Court Action. A separate Order will be entered reflecting this decision.

Date: 3 Jun 1999



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Marvin Sicherman, Esq.
Ann Marie Hawkins, Esq.
Sherry Phillips, Esq.
Mary Ann Rabin, Esq.
Sheila Cooley, Esq.
Lawrence Oscar, Esq.
Derrick Rippy, Esq.

By: 
Date: 6/3/99

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NORTHERN DISTRICT OF OHIO
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FILED
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NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 98-17666
)
MADONNA HALL, INC.,) Chapter 11
)
Debtor:) Judge Pat E. Morgenstern-Clarren
)
_____)
)
MULTI-CARE SERVICES, INC.,) Adversary Proceeding No. 98-1370
)
Plaintiff,)
)
v.) **ORDER**
)
SCIDEM, INC., et al.,)
)
Defendants.)

For the reasons stated in the Memorandum of Opinion filed this same date, the Motion of Defendant Scidem, Inc. to Remand and in the Conjunctive, for Relief from Stay and the Motion by Plaintiff Multi-Care Services, Inc. to Remand and for Relief from Stay are granted. (Docket 4, 9).

Cuyahoga County Court of Common Pleas Civil Action No. 316776 is remanded to the Cuyahoga County Court of Common Pleas. The automatic stay against the Debtor, Madonna

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Hall, Inc., is lifted solely to permit Scidem, Inc. and Multi-Care Services, Inc. to litigate the claims that have already been filed against the Debtor in that lawsuit.

IT IS SO ORDERED.

Date: 3 June 1999

Pat E. Morgenstern-Clarren
Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Marvin Sicherman, Esq.
Ann Marie Hawkins, Esq.
Sherry Phillips, Esq.
Mary Ann Rabin, Esq.
Sheila Cooley, Esq.
Lawrence Oscar, Esq.
Derrick Rippy, Esq.

By: Joyce L. Gordon, Secretary

Date: 6/3/99