

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>IN RE: ERN REYNOLDS,</b>	)	<b>CHAPTER 7</b>
<b>Debtor(s).</b>	)	
	)	<b>CASE NO. 09-71964</b>

<b>IN RE: ERN REYNOLDS,</b>	)
<b>Debtor</b>	)
	)
<b>v.</b>	)
	)
<b>WELLS FARGO BANK, N.A.,</b>	)
<b>Respondent</b>	)
	)
<b>and</b>	)
	)
<b>CHARLES R. ALLEN, JR., TRUSTEE</b>	)
	)
<b>v.</b>	)
	)
<b>REYNOLDS LIVING TRUST</b>	)
<b>ERN REYNOLDS, TRUSTEE, pro se</b>	)
<b>Defendant-Intervenor</b>	)
	)
<b>v.</b>	)
	)
<b>ATTORNEY LIABILITY</b>	)
<b>PROTECTION SOCIETY, INC., A</b>	)
<b>MONTANA CORP. a/k/a ALPS</b>	)
<b>Crossclaim Defendant<sup>1</sup></b>	)

**DECISION AND ORDER  
DENYING MOTION TO INTERVENE,  
INTERPLEAD, and PRESCRIBE BOND  
(Docket Entry No. 63)**

The matter before the Court is the motion filed by Ern Reynolds, Trustee of the Reynolds Living Trust, acting pro se, on February 3, 2011 as docket entry no. 63 and which this Court has termed “the Intervention Motion.” It is presently set for argument on April 11, 2011 although it has been discussed in open court during hearings held in this case on February 7, 2011 and February 22, 2011. Although it is not this Court’s normal practice to rule upon a

<sup>1</sup> This is the caption which has been utilized by the pro se proponent of the Motion.

motion in advance of any hearing set by the proponent, it has determined that in the very unusual circumstances presented here oral argument upon the Intervention Motion will not be helpful in assisting in the consideration of such motion and further that the ends of justice will be served best by ruling promptly upon it so that its proponent may decide sooner rather than later how he wishes to proceed in light of such ruling. Its reasons for that determination are as follows:

1. While the Federal Rules of Bankruptcy Procedure authorize the filing of motions to intervene (Rule 7024) and interplead (Rule 7022) in adversary proceedings in bankruptcy cases, those Rules are not made applicable to motions pursuant to Rule 9014 initiating “contested matters.” *See* Fed. R. Bankr. P. 9014(c).

2. The proponent of the Intervention Motion seeks to add as parties to the Motion for Relief From Stay filed by Wells Fargo, N.A. as docket entry no. 47 himself as Trustee of the Reynolds Living Trust, which is not a bankruptcy debtor in this Court, and the purported professional liability insurance carrier for counsel for the Debtor in this case on the basis that Ern Reynolds individually as the Debtor has a claim against such counsel arising out of the unwelcome timing of the entry of an order of discharge in this case before the Debtor had entered into a reaffirmation agreement concerning his indebtedness to Wells Fargo. The Relief From Stay motion is a motion pursuant to Rule 9014 initiating a contested matter. That motion has been granted in the Order entered by this Court on February 10, 2011 (docket entry no. 68) for the reasons set forth in a contemporaneous Memorandum Decision (docket entry no. 67). The Intervention Motion seeks to add third party claim relief available pursuant to Bankruptcy Rule 7014 in adversary proceedings to a simple motion for relief from the stay “contested matter” proceeding pursuant to Rule 9014, which by its terms does not authorize such relief. *See*

Fed. R. Bankr. P. 9014(c).

3. While the Court may have discretion under Rule 9014(c) to authorize additional Part VII Rules to apply to specific “contested matter” proceedings, use of that authority is not appropriate here because the relief which the proponent seeks to obtain, which may be summarized as a declaratory judgment upon various contentions advanced by the proponent and a recovery of damages from the professional liability carrier, ought to be pursued, if at all, in an adversary proceeding, as provided in Rule 7001(1) and (10), not in a motion pursuant to Rule 9014. To the extent that the proponent seeks to enjoin Wells Fargo from proceeding with foreclosure, that relief again is something which the Bankruptcy Rules provide ought to be sought by means of an adversary proceeding. *See* Fed. R. Bankr. P. 7001(7).

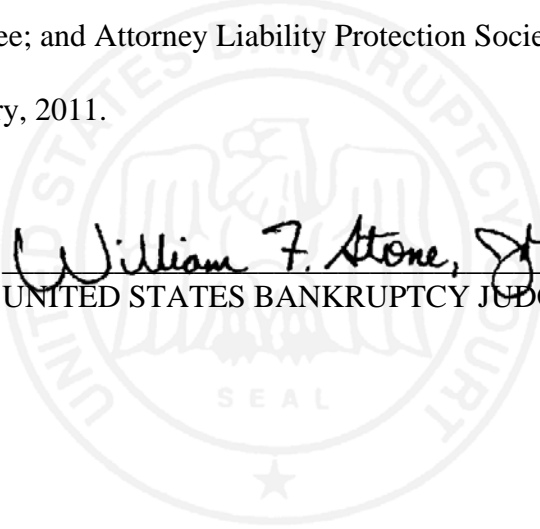
4. To the extent, if any, that the proponent seeks to compel Wells Fargo to enter into a reaffirmation agreement with him individually or to obtain some ruling from the Court approving such a reaffirmation agreement, this Court has already ruled that such relief is simply not available. That ruling has become final and is no longer open to modification by means of creative lawyering.

Accordingly, it is ADJUDGED and ORDERED that the Intervention Motion, being that motion docketed in this case as docket entry no. 63, is DENIED and DISMISSED because (i) much of the relief it seeks to obtain has already been rendered moot by this Court’s February 10, 2011 Memorandum Decision and Order, and (ii) the remaining relief sought in such motion is not available as an “add on” to a motion for relief from stay proceeding pursuant to Rule 9014 and ought to be advanced, if at all, in an adversary proceeding pursuant to Part VII of the Bankruptcy Rules. This ruling shall not be deemed to constitute any determination as to the

jurisdiction of this Court to entertain one or more adversary proceedings advancing the claims for relief set forth in the Intervention Motion or whether such claims are “core” or “non-core” bankruptcy proceedings within the provisions of 28 U.S.C. § 157(b)(2).

The Clerk is directed to send a copy of this Order to each of the following: Ern Reynolds, Trustee of the Reynolds Living Trust; the Debtor; counsel for the Debtor; the case trustee; the Office of the United States Trustee; and Attorney Liability Protection Society, Inc.

Enter this 25th day of February, 2011.

The seal of the United States Bankruptcy Court is visible in the background, featuring a central figure holding scales and a sword, surrounded by the text "UNITED STATES BANKRUPTCY COURT" and "SEAL" with a star below.  
*William F. Stone, Jr.*  
UNITED STATES BANKRUPTCY JUDGE