

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

- - - - - x

In re: :

GEORGE THOMAS & VALERIE A. THOMAS : BK No. 02-11742
Debtors : Chapter 7
:

MIDDLEBURY VENTURE PARTNERS, INC., :
Plaintiff :
v. : A.P. No. 02-1044
:

GEORGE THOMAS & VALERIE A. THOMAS :
Defendants :

- - - - - x

ORDER ABSTAINING UNDER 28 U.S.C. §1334(c)(2)

Heard on the Motion of Intervenors, Georgeann and Thomas Thomas, to Compel Production of Documents, and the Defendants' Motion to Dismiss the above captioned adversary proceeding. At the initial hearing, the Court informed the parties that it needed to hear why the Bankruptcy Court should not abstain and return this dispute to the Rhode Island Superior Court. As this is essentially a two party dispute involving state law issues, where the outcome has no bearing on the Debtors' bankruptcy estate, and where the same litigation is pending in the State Court, at a reconvened hearing, including the Chapter 7 Trustee, all parties agreed that abstention may be appropriate in this matter.

There was also discussion and concern by the Defendants that

the instant adversary proceeding may have something to do with the determination of the dischargeability of Middlebury Venture Partners' claim in this bankruptcy. After careful review, however, it is clear that this is not a dischargeability complaint. Nowhere in the Complaint does Middlebury even refer to the issue of dischargeability of its claim, nor is there any citation to any relevant Code section. Additionally, the Adversary Proceeding Coversheet completed by Middlebury indicates that the nature of the suit is "To Determine the Validity, Priority, or Extent of a Lien or Other Interest in Property."

Accordingly, pursuant to 28 U.S.C. § 1334(c)(2), this Court will abstain from hearing this matter, and the parties should return to Superior Court to proceed with the litigation pending there. The Motion to Compel and the Motion to Dismiss are DENIED as MOOT, and this adversary proceeding is hereby dismissed in light of our abstention.

Dated at Providence, Rhode Island, this 25th day of August, 2003.

/s/ Arthur N. Votolato
Arthur N. Votolato
U.S. Bankruptcy Judge