

The document below is hereby signed.

Signed: March 8, 2018



S. Martin Teel, Jr.

S. Martin Teel, Jr.
United States Bankruptcy Judge
UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
MARTHA AKERS,)	Case No. 16-00600
)	(Chapter 7)
Debtor.)	
_____)	
)	
JOHN P. FITZGERALD, III,)	
)	
Plaintiff,)	
)	
v.)	Adversary Proceeding No.
)	17-10034
MARTHA AKERS,)	
)	Not for publication in
Defendant.)	West's Bankruptcy Reporter.

MEMORANDUM DECISION AND ORDER STRIKING NOTICES OF REMOVAL

In her *Amended Notice of Removal* the debtor asserts that by way of the *Amended Notice of Removal* this adversary proceeding, in which the plaintiff seeks to deny the debtor a discharge, is automatically removed to the District Court under 28 U.S.C. 1441, *et seq.* I will strike the *Amended Notice of Removal* because the removal statutes do not apply to an adversary proceeding already pending in the Bankruptcy Court as a unit of the District Court.

First, 28 U.S.C. § 1441 deals with only removal of "a civil action brought in a State court." The adversary proceeding was not brought in a State court.

Second, 28 U.S.C. § 1452 (the only other removal statute of possible relevance) relates to civil actions over which the District Court has jurisdiction under 28 U.S.C. § 1334. The adversary proceeding, seeking to deny the debtor a discharge under 11 U.S.C. § 727(a), is one arising under the Bankruptcy Code, and is thus one over which the District Court has jurisdiction under 28 U.S.C. § 1334(b). However, under District Court Local Bankruptcy Rule ("DCt.LBR") 5011-1(a), as authorized by 28 U.S.C. § 157(a), the adversary proceeding has been referred to the Bankruptcy Court, which under 28 U.S.C. § 151 serves as a unit of the District Court. The subject matter jurisdiction that the Bankruptcy Court is exercising over the proceeding is that of the District Court under 28 U.S.C. § 1334(b). In other words, the exercise of the jurisdiction of the District Court over the proceeding is already in place. The removal statute is inapplicable to a proceeding over which the District Court's subject matter jurisdiction is already being exercised. Filing a notice of removal has accomplished nothing.

In any event, DCt.LBR 5011-1(b) provides in pertinent part:

The referral pursuant to paragraph (a) of proceedings to the bankruptcy judges of this District includes any civil action (or claim or cause of action in a civil action) removed on the basis that the District Court has

