

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

|                       |   |                   |
|-----------------------|---|-------------------|
| In Re:                | ) |                   |
|                       | ) |                   |
| MOHAMED ALI SAMANTAR, | ) |                   |
|                       | ) | CASE No. 12-11085 |
|                       | ) | (Chapter 7)       |
| Debtor.               | ) |                   |
| _____                 | ) |                   |

**DEBTOR'S OPPOSITION TO MOTION TO DISMISS CASE**

Comes now Debtor, Mohamed Ali Samantar, through counsel, and states the following as and for his Opposition to the putative tort claimant creditors' motion to dismiss this bankruptcy case:

1. In their fruitless search for bases for dismissal of this case, Movants focus on three factual clusters: (i) the various procedural steps that Debtor has taken in his on-going defense against Movants' federal court lawsuit; (ii) Debtor's failure to include as "income" on Schedule I financial support which his family has provided; and (iii) Debtor's failure to list on his schedules supposed ownership of two houses in Somalia that he stated in passing in his deposition that he owned.

2. The U.S. District Court for the Eastern District of Virginia and the U.S. Court of Appeals for the Fourth Circuit would be the appropriate fora for determining the propriety of the conduct of Debtor's *ongoing* defense in the District Court litigation. Movants sought to make that an issue in their ill-considered District Court motion for sanctions against undersigned counsel<sup>1</sup> and Debtor's District Court counsel. Copies of that motion and the responses of District Court counsel and undersigned counsel are attached as Exhibits 1 through 3.

3. At the April 20, 2012 hearing on the sanctions motion, the District Court refused to

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<sup>1</sup> Who has not ever appeared in the District Court litigation

hear any argument and summarily denied the motion. Ruling from the bench, the District Court was laudatory of the efforts of District Court Counsel, particularly in light of the fact that Movants had resources vastly superior to those of the Debtor.<sup>2</sup>

4. No judgment has been entered against the Debtor, and the issue of District Court jurisdiction over Movants' lawsuit is still under appellate review. Indeed, on May 16, 2012, a three judge panel of the Fourth Circuit heard oral argument on that issue, and it bears further mention that counsel for the United States was also heard as *amicus curiae*. Accordingly, Movants are not entitled to a presumption that any judgment exists, or may yet be entered, much less a judgment for “conduct akin to fraud, misconduct or gross negligence”.

5. Movants do not cite any legal authority for the novel proposition that Debtor was *required* to list family assistance on Schedule I.<sup>3</sup> That Schedule requires the listing of “income” and income only. This contrasts with Form 22A, which, on line 8, requires the listing of “Any amounts paid, by another person or entity, for the household expenses of the debtor.”

6. It is Debtor's family's position that the two Somalian houses are the property of the Debtor's wife, which she had inherited from her family. However, as Movants themselves note in their Second Amended Complaint, “Somalia remains without a national government and a functioning judicial system” *Second Amend Complaint* at ¶90. In a land bereft of a judicial system or national government, the concept of “ownership” is problematical, and the notion that a trustee can be required to administer such a property is risible.<sup>4</sup>

7. In conclusion, Movant's motion is premature at best and baseless at worst and should be denied.

WHEREFORE, for the reasons set forth above, Debtor respectfully requests that this Court

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2 Movants apparently have unlimited resources with which to wage this litigation as evinced by the enormous figures in the attachments to their motion for relief from stay in this case; this presages their squandering even more resources in their benighted attempts to advance their political agenda.

3 Movants merely cite hortatory language in an ABA “working paper”, which, at the time of issuance, had not been approved by the ABA House of Delegates and thus not even considered to be ABA “policy”.

4 Of course we advert to Movants' objection to the Trustee's No-Asset Report and attempt to compel the Trustee to administer property in a country without a national government or functioning legal system.

enter an order denying Movants' motion and providing such other and additional relief as is appropriate.

/s/ Christopher S. Moffitt  
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*Counsel for Debtor*

*CERTIFICATE OF SERVICE*

I hereby certify that on this 7<sup>th</sup> day of June, 2012, I served copies of the foregoing opposition by ECF on all parties in interest.

/s/ Christopher S. Moffitt