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signed 1-5-00

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In Re:

DORA TAPIA,

DEBTOR.

**CASE NO. 99-42142-13
CHAPTER 13**

ROSIE L. SCHMITT,

PLAINTIFF,

v.

ADV. NO. 99-7108

**GABRIEL SAUZ,
DORA TAPIA,**

DEFENDANTS.

ORDER GRANTING MOTION TO REMAND

This proceeding is before the Court on plaintiff Rosie L. Schmitt's motion to remand. Ms. Schmitt appears by counsel Dale L. Somers and Anne L. Baker. Neither of the defendants has filed a response. The Court has reviewed the relevant pleadings and is now ready to rule.

Ms. Schmitt commenced this suit in 1995 in the District Court for Edwards County, Kansas, against Gabriel Sauz and debtor Dora Tapia. A judgment was entered in 1996, and the defendants appealed. A bond was posted to stay execution on the judgment. In May 1999, the Kansas Court of Appeals declared that the portion of the judgment that had been granted against Mr. Sauz was void for lack of personal jurisdiction, but affirmed the judgment against the debtor except for a question about the rental value of a house. The Kansas Supreme Court denied a petition for review. The debtor filed

for bankruptcy in September 1999, before the rental value question had been resolved. Ms. Schmitt soon filed a motion for stay relief. A month after filing for bankruptcy, the debtor removed the state court case to this Court, where it became this adversary proceeding.

Under 28 U.S.C.A. §1452(b), the Court may remand this case to state court “on any equitable ground.” Remand is considered appropriate when a case has been pending for some time in a state court that is familiar with the issues, the case was nearing resolution when it was removed, and other claims must be resolved in the state court in any event. *See Textron Investment Management Co., Inc., v. Struthers Thermo-Flood Corp.*, 169 B.R. 206, 211-12 (D.Kan. 1994). In her notice of removal, the debtor suggested the automatic stay would prevent the resolution of this case in state court. This Court has now granted Ms. Schmitt’s motion for stay relief. The state court is certainly competent to resolve the other issues remaining in the suit. The debtor has offered no other reason why the proceeding should remain before this Court. The Court concludes remand is appropriate.

Consequently, this proceeding is remanded to the District Court for Edwards County, Kansas, from which it was removed.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this _____ day of January, 2000.

JAMES A. PUSATERI
CHIEF BANKRUPTCY JUDGE