

BANKRUPTCY ^{UP}DATE

July 12, 2022

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CLN Decisions

You can use the links in the "Links" section below to view the following decisions:

In re Ofstad

Issue: Whether the chapter 7 debtor's bankruptcy case should be dismissed under 11 U.S.C. § 305(a)(1)?

Ruling: Yes. Of the five factors a court considers before dismissing a bankruptcy case under § 305(a)(1), as set forth in *Pennino v. Evergreen Presbyterian Ministries (In re Pennino)*, 299 B.R. 536, 539 (B.A.P. 8th Cir. 2003), four weighed heavily in favor of dismissal and the remaining factor was not applicable. The case was clearly a two-party dispute, there was no true chapter 7 case to administer because there were no scheduled creditors and no claims to be discharged, the parties were litigating in state court and that forum remained available to them, and all of the circumstances showed the debtor filed his bankruptcy case and the attendant adversary proceeding solely to create a new forum in which to litigate his dispute.

Ofstad v. Wilmington Savings Fund Society, FSB (In re Ofstad)

Issue: Whether the Court should abstain from hearing this adversary proceeding pursuant to 28 U.S.C. § 1334(c)(1)?

Ruling: Yes. When the 12 factors set forth in *Foss v. Hall County Child Support Office (In re Foss)*, 328 B.R. 780, 783 (B.A.P. 8th Cir. 2005), were considered, a hefty majority weighed in favor of abstention.

Links

[*In re Ofstad*](#)

[*Ofstad v. Wilmington Savings Fund Society, FSB \(In re Ofstad\)*](#)

[Previous Bankruptcy ^{UP}dates](#)

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