

Defendants/Counter-Plaintiffs/Third-Party Plaintiffs Defendants HSBC Bank USA, National Association, as Trustee for ACE Securities Corp. Home Equity Loan Trust, Series 2003-OP1 (“HSBC as Trustee”) and PHH Mortgage Corporation (“PHH”) (collectively, “Counter-Plaintiffs”) file this Suggestion of Bankruptcy of Third-Party Defendant Sandra Nicely Falconer (“Falconer”) and Notice of Automatic Stay and state as follows:

Plaintiff Capital Fund I, LLC (“Plaintiff”) filed an Amended Complaint on September 26, 2024.¹ Counter-Plaintiffs filed an Original Counterclaim against Plaintiff and a Third-Party Complaint against Falconer and Remus Nembhard (“Nembhard”) (the “Third-Party Complaint”) on October 29, 2024.² Falconer and Nembhard were served with copies of the summons, the Third-Party Complaint, and the Scheduling/Docket Control Order in this case on November 1, 2024.³ Falconer and Nembhard’s deadline to answer the Third-Party Complaint was on November 27, 2024. *See* FED. R. CIV. P. (a). Neither Falconer nor Nembhard filed an answer.

On December 3, 2024, Falconer filed a Voluntary Petition for Individuals Filing for Bankruptcy (the “Petition”) under Chapter 13 of Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, in a case styled *In re Sandra Nicely, Debtor*, Case No. 24-35704 (the “Bankruptcy Case”). A true and correct copy of the Petition is attached hereto as **Exhibit A**. The Bankruptcy Case remains pending.

Pursuant to 11 U.S.C. § 362, the parties in this action are stayed and enjoined from taking any further action to obtain or enforce a judgment in this or any another cause of action arising before the filing of the Bankruptcy Case. Therefore, Counter-Plaintiffs request that this Court retain this action in its active docket, pending the disposition of the Bankruptcy Case.

¹ Doc. No. 16-1.

² Doc. No. 27.

³ Doc. Nso. 33, 34.

Respectfully submitted,

/s/ Helen O. Turner

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**COUNSEL FOR DEFENDANTS, COUNTER-
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PLAINTIFFS**

CERTIFICATE OF SERVICE

I hereby certify that on this December 16, 2024, a true and correct copy of the foregoing instrument was served on the following counsel of record *via CM/ECF, email, and/or CMRRR* according to the Federal Rules of Civil Procedure:

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