

FILED  
UNITED STATES  
DISTRICT COURT  
DISTRICT OF UTAH  
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

In Re:

C. DEAN LARSEN,  
Debtor,

COTTAGE FARMS, LTD.,  
a Limited Partnership,  
Plaintiff,

vs.

MARY ELLEN SLOAN, as Trustee  
for the Estate of Debtor;  
MARY JO LARSEN; ROSALIND  
MAYFIELD and Does 1 THROUGH  
10,

Defendants.

MEMORANDUM OPINION  
AND ORDER

Bankruptcy No. 87-C-02615

Adversary No. 90-PC-0720

Civil No. 91-C-912J

Judge Bruce S. Jenkins

I. Introduction

This matter came before the court on a Motion To Withdraw The Bankruptcy Court Reference filed by defendant Rosalind Mayfield ("Mayfield"). After hearing oral argument on December 16, 1991, the court took the matter under advisement and allowed counsel to submit supplemental memoranda. After reviewing the pleadings submitted in this matter, including the supplemental memoranda mentioned above, the court hereby denies Mayfield's motion.

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## II. Factual Background

Cottage Farms, Ltd. ("Cottage Farms") is a limited partnership organized in December of 1976 under the laws of the State of Utah. Cottage Farms is now in the process of winding up. From the inception of Cottage Farms, C. Dean Larsen (the "Debtor") was a limited partner in Cottage Farms. Defendant Mary Ellen Sloan ("Sloan"), as trustee, is now the lawful representative of the Debtor's bankruptcy estate.

In early 1987, the Debtor transferred to Mayfield 16 2/3 percent of the partnership interests in Cottage Farms, the partnership interest previously held by the Debtor. In September of 1989, Cottage Farms was informed by the Debtor and by Mayfield that one half of the partnership interest transferred to Mayfield, 8 1/3 percent of the partnership interest, had been transferred by Mayfield to Defendant Mary Jo Larsen ("Larsen"), the Debtor's wife.

Cottage Farms previously owned improved real estate located in Midway, Utah, which was used as investment property and as a family recreation property for the partners of Cottage Farms and their families. On August 23, 1990, the property was sold by the partnership on a three year installment sale basis. Net proceeds of the down payment of the sale of the property were distributed to the partners of Cottage Farms, except for the 16 2/3 percent interest transferred to Mayfield and eventually to Larsen. Other monies will be available for distribution as they are paid by the buyer of the property to the partnership over three years.

Cottage Farms received conflicting claims to the net proceeds

due for the account of the 16 2/3 partnership interest at issue from Mayfield, Larsen and Sloan. In particular, Sloan claimed that the transfer by Debtor of his interest in Cottage Farms constitutes a fraudulent conveyance in violation of Section 548(a)(2)(A) of Title 11 of the United States Code. Sloan, therefore, has demanded that all present and future proceeds of the partnership liquidation and winding up attributable to the 16 2/3 percent interest be paid to her as trustee.<sup>1</sup>

Cottage Farms made no claim to the 16 2/3 percent interest in dispute and stated that it was of great doubt as to which defendant or defendants were entitled to be paid the proceeds related to this interest. Cottage Farms, therefore, filed a Complaint For Interpleader And Declaratory Relief and deposited the disputed amount with the Clerk of the bankruptcy court. Thereafter, Mayfield filed this Motion To Withdraw The Bankruptcy Court Reference, claiming that she has a right to a jury trial on the issues raised by Cottage Farms' interpleader complaint. Larsen filed a memorandum in support of Mayfield's motion and Sloan opposed Mayfield's motion.

### III. Discussion

Interpleader is an equitable remedy governed by equitable principles. United States v. Major Oil Corp., 583 F.2d 1152, 1157

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<sup>1</sup>It appears from the record that Sloan has not stated the claim of the bankruptcy estate to the interpled fund by filing an action against Mayfield or Larsen. Rather, Sloan has raised the claim of the bankruptcy estate only in a demand letter to Cottage Farm dated August 15, 1990 and in her answer to Cottage Farms' interpleader complaint.

(10th Cir. 1978); Champlin Petroleum Co. v. Ingram, 560 F.2d 994, 997 (10th Cir. 1977), cert. denied, 436 U.S. 958 (1978). Because of the equitable nature of an interpleader action, claimants to an interpled fund generally are not entitled to trial by jury. See U.S. v. McMullin, 948 F.2d 1188, 1190 (10th Cir. 1991) ("when the government only seeks to enforce its tax lien against a taxpayer's property, the taxpayer has no right to a jury trial since the action sounds in equity."); Snider v. Circle K Corp., 923 F.2d 1404, 1407 (10th Cir. 1991) ("[b]ecause of the equitable nature of the remedies available in a Title VII action, Title VII claimants are not entitled to a jury trial."). Mayfield correctly notes that although an interpleader action is equitable in nature, the parties to such an action are entitled to a jury trial of the legal issues arising out of such action. McMullin, 948 F.2d at 1190 ("in a proceeding . . . where the government seeks both equitable and legal relief, . . . the taxpayer under the Seventh Amendment is entitled to a jury trial on the legal issues, . . ."). Mayfield, however, fails to demonstrate to the court the precise legal issues raised by the interpleader complaint that would give rise to the right to trial by jury. Cottage Farms' interpleader action, therefore, appears to be entirely equitable in nature.

Mayfield attempts to characterize Cottage Farms' interpleader action as at least partially legal in nature by analogizing this matter to that involved in Langenkamp v. Culp, \_\_\_ U.S. \_\_\_, 111 S. Ct. 330, 331 (1990), reh'g denied, \_\_\_ U.S. \_\_\_, 111 S. Ct. 721 (1991). In Langenkamp, the United States Supreme Court held that

a bankruptcy action brought by a bankruptcy trustee to recover alleged preferences or alleged fraudulent conveyances from a party that does not submit a claim against the bankruptcy estate is legal, rather than equitable. Langenkamp is inapplicable to the instant case, however, because the instant case does not involve an action brought by a bankruptcy trustee against Mayfield or Larsen. In fact, Sloan, the trustee in this case, is named as a co-defendant in Cottage Farms' interpleader action. Sloan's claims to the interpled fund raised in her answer to the Interpleader Complaint may raise arguments similar to those that would have been raised by Sloan had she brought an action herself. The procedural posture of the instant action, however, differs greatly than that of the type of action addressed by the Langenkamp court in the passage cited to this court by Mayfield.<sup>2</sup> Accordingly, the court

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<sup>2</sup>A careful reading of the Langenkamp decision indicates that the procedural posture of the action is critically important to the determination of whether the right to trial by jury exists. The following passage is illustrative in this regard:

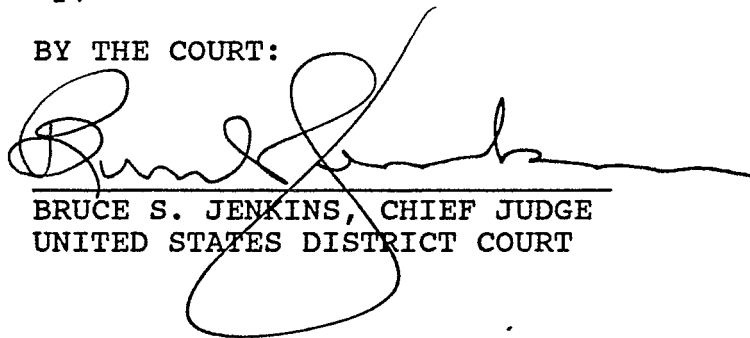
In Granfinanciera, we recognized that by filing a claim against a bankruptcy estate the creditor triggers the process of "allowances and disallowance of claims," thereby subjecting himself to the bankruptcy court's equitable power. If the creditor is met, in turn, with a preference action from the trustee, that action becomes part of the claims-allowance process which is triable only in equity. In other words, the creditor's claim and the ensuing preference action by the trustee become integral to the restructuring of the debtor-creditor relationship through the bankruptcy court's equity jurisdiction. As such, there is no Seventh Amendment right to a jury trial. If a party does not submit a claim against the bankruptcy estate, however, the trustee can recover allegedly preferential transfers only by filing what amounts to a legal action to recover a monetary transfer. In those circumstances, the preference defendant is entitled to a jury trial.

finds that the reasoning of Langenkamp cited by Mayfield is inapplicable to the instant case. Additionally, the record before this court fails to establish the existence of any outstanding legal issues related to Cottage Farms' interpleader action. Mayfield's Motion To Withdraw The Bankruptcy Court Reference, therefore, is DENIED.

IT IS SO ORDERED.

Dated this 29 day of January, 1992

BY THE COURT:



BRUCE S. JENKINS, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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Langenkamp, 111 S. Ct. at 331 (citations omitted) (emphasis in original).