

DISTRICT	OFF.	DOCKET NO. YR. NUMBER	OF	FILING DATE MO. DAY YR.	NATURE SUIT	DIV. PT. DEL.	R. 23	MAND. USERS	JUDGE	CLERK	COUNT	JURY DEM.	DOCKET YR. NUMBER
0541	5	88 00106	2	12 16 88	1	430						no	L-88-106

PLAINTIFFS

I FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION
as Receiver for TESORO SAVINGS & LOAN ASSOCIATION

AMERICITY FEDERAL SAVINGS BANK'S (INTERVEOR)

DEFENDANTS

GOLD PARK DEVELOPMENT
PARTNERSHIP
PERCY BEARD
RANDALL K. BOATRIGHT
ALAN RICHARD BRAID
DAVID M. BREEDLOVE
ROBERT M. BREEDLOVE
GUY O. DANIELSON
JAN H. GARRETT
MARK GREENBERG
C.M. McROBERTS
JAMES R. MORRIS
STEVE MORRISS
T.M. MORRISS
DAVID L. MOZERSKY
MARVIN G. STEPHENS, JR.
GEORGE E. WALTER, JR. AND
EDWARD A. WOLF

CAUSE
(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE
IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

T-12 U.S.C. Sec. 1730(k)(1)(c) COUNTERCLAIM FOR USURY

ATTORNEYS

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Loan Ins. Corp. as receiver for
Tesoro Savings and Loan Association

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<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
	12/19/88	271439	120.00	JS-5	X
				JS-6	vs

CIVIL DOCKET CONTINUATION SHEET

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(Rev. 1/75)

PLAINTIFF		DEFENDANT	DOCKET NO. L-88-106
FEDERAL SAVINGS & LOAN INS. CORP. as receiver of TESORO SAVINGS & LOAN		GOLD PARK DEVELOPMENT PARTNERSHIP ET AL	PAGE 1 OF _____ PAGES
ASSOCIATION DATE	NR.	PROCEEDINGS	
12/16/88	1	PLTF'S VERIFIED PETITION FOR REMOVAL, filed. (Exhibit A included). EXHIBIT B placed in separate folders.	
12/16/88	2	PLTF'S NOTICE OF REMOVAL, filed.	
1/9/89	3	(GPK) ORDER ENTERED. Parties notified. The subject of this suit is a note. Under the terms of the purchase and assumption agreement as described in the removal petition, the note would appear to be owned by Americity rather than existing as part of the receivership estate. The jurisdiction issue cannot be resolved w/out ascertaining who owns the disputed loan. Accordingly, the COURT DIRECTS FSLIC to respond to this inquiry, accompanied by relevant documentation, no later than 10:00 A.M. JAN. 25, 1989. Dkt'd 1/10/89 vs	
1/23/89	4	Attorney RICHARD E. FLINT'S MOTION AND ORDER PURSUANT TO LOCAL RULE 1, filed.	
1/24/89	5	"FSLIC" MOTION TO DISMISS, filed.	
1/24/89	6	"FSLIC" BRIEF IN SUPPORT OF MOTION TO DISMISS, filed.	
1/24/89	7	"FSLIC" RESPONSE TO ORDER OF COURT, filed.	
3/29/89	8	(GPK) MEMORANDUM AND ORDER ENTERED. Parties notified. The Court DIRECTS MAGISTRATE MARCEL NOTZON TO IMMEDIATELY CONVENE A PRETRIAL CONF. AND SET FIRM, REASONABLY PROMPT DEADLINES FOR COMPLETION OF PRETRIAL ACTIVITIES, INCLUDING the filing of the JPTO. Dkt'd 3/30/89 vs	
4/27/89	9	(MCN) ORDER FILED AND ENTERED. Pretrial conference is set for June 8, 1989 at 3:00 P.M. to be init. by Richard Flint. Counsel shall submit an agreed scheduling Order for the Court's consideration by May 15, 1989. Dkt'd 4/27/89 kp	
1/3/89	10	SECOND MOTION TO DISMISS OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND MEMORANDUM IN SUPPORT THEREOF, filed Dkt'd 5/4/89 kp	
5/5/89	11	(MCN) SCHEDULING ORDER, filed. ORDERED that for deadlines be and they are hereby set as follows: JUNE 15, 1989 JOINDER OF ADDITIONAL PARTIES JULY 15, 1989 PLTF DESIGNATES EXPERT WITNESSES JULY 29, 1989 DEFTS DESIGNATE EXPERT WITNESSES AUG. 18, 1989 PLTF'S AMENDED PLEADINGS W/BE FILED. SEPT. 5, 1989 DEFT'S AMENDED PLEADINGS W/BE FILED. SEPT. 22, 1989 DISCOVERY CLOSES. SEPT. 29, 1989 ALL CONTESTED MOTIONS W/BE FILED. DEC 27, 1989 JOINT PRETRIAL ORDER WILL BE DUE. Attys notified. dkt'd 5/7/89	
5/11/89	12	MOTION PRO HAC VICE ON BEHALF OF BENNETT L. STAHL, filed. dkt'd 5/11/89 B	
5/11/89	13	AMERCITY FEDERAL SAVINGS BANK'S MOTION FOR LEAVE TO INTERVENE, filed. dkt'd 5/11/89 B	
5/17/89	14	(MCN) ORDER FILED AND ENTERED. MOTION TO APPEAR PRO HAC VICE IS GRANTED. (Application for admission has been mail to Mr. Stahl) (Attys notified). Dkt'd 5/17/89 K.	

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>L-88-106</u>
FSLIC		GOLDPARK DEVELOPMENT PARTNERSHIP, et al	PAGE <u>1</u> OF <u> </u> PAGES
DATE	NR.	PROCEEDINGS	
6/7/89	15	(GPK) ORDER FILED AND ENTERED. THE COURT DIRECTS Defendants to address this issue forthwith, but in no event should defendants respond any later than 10:00 A.M. on June 16, 1989. (Attys notified by certified mail) Dkt'd 6/7/89 K.	
6/8/89	16	DEFENDANT MOTION AND ORDER PUSUANT TO LOCAL RULE 1, filed. Dkt'd 6/9/89 K.	
6/8/89	17	RESPONSE QF GOLD PARK DEVELOPMENT PARTNERSHIP TO MOTION TO DISMISS, filed. Dkt'd 6/9/89 K.	
6/8/89	18	BRIEF IN SUPPORT OF RESPONSE OF GOLD PARK DEVELOPMENT PARTNERSHIP TO MOTION TO DISMISS, filed. Dkt'd 6/9/89 K.	
6/8/89	19	(MCN) COURT MINUTES: Teleconference Begun--Status of causediscussed.--Judge Kazen's Order of 6/7/89 was brought up and Ms. Oyervides states she federal expressed her response yesterday, 6/7/89.--Next tel-status conf. 6/29/89 at 3:00 By Oyervides. Attys notified.--Teleconference concluded. Dkt'd 6/12/89 K.	
6/14/89	20	(GPK) ORDER FILED AND ENTERED. The Motion of Terrence J. Martin to appear pro hac vice is GRANTED . Dkt'd 6/14/89 K.	
6/15/89	21	(GPK) TELEPHONIC CONFERENCE WITH LAW CLERK: Deft Atty: LINDA OYERVIDES Pltf Atty: RICHARD FLINT Discussed Beard letter proposing remand Flint recommend FSLIC agree, but does not have client approval--If Gold Park is remanded parties request that this action be stayed. Dkt'd 6/16/89 K.	
6/20/89	22	(GPK) MEMORANDUM AND ORDER ENTERED. Accordingly the Court DENIES deft FSLIC's second motion to dismiss. (Attys notified) Dkt'd 6/20/89 K.	
6/23/89	23	PLAINTIFF MOTION OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR TESORO SAVINGS AND LOAN ASSOCIATION FOR RECONSIDERATION OF ITS SECOND MOTION TO DISMISS, filed. Dkt'd 6/23/89 K.	
7/5/89	24	(MCN) COURT MINUTES: ON JUNE 29, 1989 Tele-Status PTC was held. Tele-conf. begun-- Status of case discussed--Attys request this case be stay until sun time as L-89 107 is decided by Appellate Court--Judge Notzon talk to Kelley Coyner, Law Clerk, regarding L-89-107 status.--Tele-conf. concluded. Dkt'd 7/6/89 K.	
7/12/89	25	DEFENDANT RESPONSE OF GOLD PARK DEVELOPMENT PARTNERSHIP, ET AL. TO MOTION OF FSLIC, AS RECEIVER FOR TESORO SAVINGS & LOAN ASSOCIATION, FOR RECONSIDERATION OF ITS SECOND MOTION TO DISMISS, filed. Dkt'd 7/12/89 K.	
9/8/89	26	(MCN) ORDER FILED AND ENTERED. ACCORDINGLY, THIS COURT ORDERS that this action be abated pending a final resolution of the Beard case. Dkt'd 9/8/89 K.	
11/2/89	27	PLAINTIFF'S MOTION OF PLAINTIFF FDIC/MANAGER-RECEIVER FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM REGARDING TRILAND HOLDINGS & CO. V. SUNBELT SERVICE CORP, filed. (M/D November 27, 1989) Dkt'd 11/2/89 K.	
11/2/89	28	PLAINTIFF'S MOTION OF THE FEDERAL DEPOSIT INSURANCE CORPORATION AS MANAGER OF THE FSLIC RESOLUTION FUND TO AMEND CAPTION, AND BRIEF IN SUPPORT THEREOF, filed. (M/D November 27, 1989) Dkt'd 11/2/89 K.	

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PLAINTIFF		DEFENDANT	DOCKET NO. <u>L-88-106</u>
FEDERAL SAVINGS & LOAN INC. CORP as receiver of TESORO SAVINGS & LOAN Assoc		GOLD PARK DEVELOPMENT PARTNERSHIP, et al	PAGE <u>2</u> OF _____ PAGES
DATE	NR.	PROCEEDINGS	
12/6/89	29	(GPK) ORDER FILED AND ENTERED. IT IS ORDERED that the Motion of the Federal Deposit Insurance Corporation as Manager of the FSLIC Resolution fund Amend Caption, and Brief in Support Thereof, be GRANTED. Dkt'd 12/6/89 K.	
12/6/89	30	(GPK) ORDER FILED AND ENTERED. All parties are now invited to comment on whether they still desire to postpone litigating the instant action. These comments must be filed with the Court by December 20, 1989. (attys ntfd) Dkt'd 12/6/89 K.	
12/8/89	31	PLAINTIFF'S RESPONSE TO COURT ORDER OF DECEMBER 6, 1989, filed. Dkt'd 12/11/89 K.	
12/19/89	32	JOINT COMMENTS/RESPONSE TO ORDER, filed. 12/19/89 K.	
12/26/89	33	(GPK) ORDER FILED AND ENTERED. On May 11, 1989 Americity Federal Savings Bank moved to intervene as a party-pltf. No opposition has been filed to this motion, which is now GRANTED. Americity has indicated that it may appeal the case. Meanwhile, Americity and Goldpark have begun settlement negotiations and have also requested that the instant action continue to abate pending final resolution of the BEARD case. The Court postpones decision on FDIC's motion and ORDERS that this action continue to abate until March 1, 1990. The parties are DIRECTED to file a status report at that time informing the Court of thier progress regarding settlement of this case and the status of the BEARD case. (attys ntfd) Dkt'd 12/26/89 K.	
3/5/90	34	DEFENDANT'S STATUS REPORT, filed. Dkt'd 3/5/90 K.	
2/27/90	35	(GPK) ORDER FILED AND ENTERED. The Court again postpones consideration of this suit and ORDERS that it contine to abate untile July 1, 1990. The parties are DIRECTED to file another status report on on before July 1, 1990. (atty ntfd) Dkt'd 3/27/90 K.	
7/5/90	36	DEFENDANT'S STATUS REPORT., filed. Dkt'd 7/6/90 K.	
7/12/90	37	(GPK) ORDER ENTERED. The Court ORDERS that the instant action continue abated until August 10, 1990. By that date the parties are directed to file a joint status report informing the Ct whether a settlement has been reached. If the parties fail to settle this action by August 10, 1990, the Court will rule on FDIC's second motion to dismiss in L-88-106. No further abatement of this action will be considered. (attys ntfd by certified mail) Dkt'd 7/13/90 K.	
7/20/90	38	PLAINTIFF'S SUPPLEMENTAL MEMORANDUM OF FDIC/MANAGER-RECEIVER IN SUPPORT OF ITS MOTION TO DISMISS., filed. Dkt'd 7/23/90 k.	
8/14/90	39	DEFENDANT'S STATUS REPORT., filed. Dkt'd 8/14/90 K.	
OVER PLEASE.....			

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PLAINTIFF FDIC	DEFENDANT GOLDPAEK DEVELOPMENT., et al	DOCKET NO. L-88-106 PAGE 2 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
8/14/90	40	(GPK) ORDER ENTERED. Ct grants FDIC'S UNOPPOSED MOTON TO FILE a supplemental memorandum in support of the motion for reconsideration. The Counter-plaintiffs are now allotted the required 10 days within which to respond to the motion. Terrence Martin attorney of record for Greenberg, is DIRECTED to advise the Court whether the trustee for Greenberg's estate intends to pursue the usury counterclaim or wishes to voluntarily dismiss against FDIC, and also whether Greenberg claims any right to assert the counterclaim on his own behalf independent of his bankrupt estate. The parties are directed to state in writing their position on whether rem would be appropriate, if FDIC is eliminated. All replies to this must be filed with the Court by August 28, 1990. (attys ntfd by certified mial) Dkt'd 8/15/90 K.
8/15/90	41	PLAINTIFF FDIC/MANAGER SUPPLEMENTAL MEMORANDUM RECEIVER REGARDING TRILAND HOLDING AND CO. V SUNBELT SERVICE CORP., filed. Dkt'd 8/15/90 k.
8/28/90	42	DEFENDANT'S MOTION TO DISMISS COUNTERCLAIM AND MOTION FOR REMAND TO STATE COURT., (M/D September 17, 1990) Dkt'd 8/28/90 K.
9/10/90	43	DEFENDANT'S COPIES OF THE PARTIAL SUMMARY JUDGMENT AND SEVERANCE., filed. Dkt'd 9/10/90 K.
9/14/90	44	(GPK) ORDER OF DISMISSAL AND REMAND ENTERED. IT IS THEREOFRE ORDERED that the counterclaim of Defendants Goldpark and Green berg against the Pltf, be dismissed with prejudice based upon a finding that FDIC has no means to satisfy a judgment against it. IT IS ORDERED that the dismissal of the Defts' counterclaim against Pltf, shall not affect an affirmative defense of usury to the claims of Intervenor Americity. It is ORDERED that all claims remaining between Americity and the Defts are hereby REMANDED to the 111 th District court of Webb County, Texas. (attys ntfd and 111 District Court ntfd by certified) Dkt'd 9/17/90 K.
9/19/90		original file mailed to 111th District Court Dkat'd 9/17/90 K.