

PROGRAM SUMMARY 1-29-22

By: Gary R. Wallace-Program Summary Committee Chair

cdcbaa Holds First Meeting and MCLE Program of 2022: "16th Annual Review of 9th Circuit Decisions on Bankruptcy in 2021"

On January 29, 2022, the CDCBAA held its first members meeting and MCLE program of the year. To help mitigate the spread of COVID-19, the meeting and program were conducted as a live webinar via Zoom video. The program topic was: "**16th Annual Review of 9th Circuit Decisions on Bankruptcy in 2021.**" The distinguished panel consisted of Hon. Deborah Saltzman, U.S. Bankruptcy Court - Central District of California, Hon. Scott Gan, U.S. Bankruptcy Court - District of Arizona and Ninth Circuit Bankruptcy Appellate Panel, and our own M. Jonathan Hayes of Resnik Hayes Moradi, LLP. CDCBAA former President and current board member Hale Antico moderated.

The program covered cases decided on many bankruptcy subjects, including exemptions, Chapter 13, the automatic stay, after-acquired community property, how to distinguish business from consumer debts, and turnover versus contempt issues in light of the recent Supreme Court decision in *City of Chicago v. Fulton*. Among the more notable cases discussed were the following:

Hutchinson v. IRS (In re Hutchinson), 15 F.4th 1229 (9th Cir. 2021): (*Debtor cannot avoid an IRS tax lien to the extent it is "attributable" to tax penalties and to the extent it impairs the homestead exemption*)

Stevens v. Whitmore (In re Stevens), 15 F.4th 1214 (9th Cir. 2021): ("We hold that abandonment under section 554(c) requires listing on a schedule, as we have defined it here, and that anything else (e.g., actual knowledge of the trustee, *ad hoc* oral disclosures, discussion at the section 341 meeting) is not enough.")

McCallister v. Wells (In re Wells), (unpublished), 2021 WL 5755086 (9th Cir. 2021): (*In re Jacobson is still good law; a debtor must acquire a new homestead using the homestead proceeds of a sale within the time prescribed by law to avoid such proceeds from being recaptured by the bankruptcy estate*)

In re Beard-Williams, 2:10-bk-30971-RK (unpublished)(Bkrtcy C.D. 2021): (The discharge injunction protects only certain community property, namely, such property that is acquired *after* the petition date)

Nichols v. Marana Stockyard & Livestock Market, Inc. (In re Nichols), 10 F.4th 956 (9th Cir. 2021): (Reversing *In re Rosson*, a debtor has an absolute right to dismiss a Chapter 13 case, and there is no implied exception to that right that would permit a bankruptcy court to use its inherent powers under section 105 to contravene express wishes of the debtor and the provisions of the Bankruptcy Code by converting the case to Chapter 7)

Landress v. Cambridge Land Company II, LLC (In re Cambridge Land Company II, LLC) (9th Cir. BAP 2021): (A case that has been "dismissed" cannot be reopened. Only a "closed" case under section 350(a) can be reopened under section 350(b). Dismissal revests all property in the debtor "regardless of whether the property was scheduled.")



Central District
Consumer Bankruptcy
Attorney Association

Stuart v. City of Scottsdale (In re Stuart), 632 B.R. 531 (9th Cir. BAP 2021): (Following *City of Chicago v. Fulton*, a creditor does not have an affirmative obligation to ensure the return of estate property to debtor. Holding onto the debtor’s funds pending a turnover request and court order does not, without more, violate the automatic stay.)

An extremely helpful outline that included citations and summaries of each decision was provided to all registered participants.

The next CDCBAA members meeting and Zoom MCLE program will be held on February 26, 2022. The topic will be “Extent of the Automatic Stay.” We hope you will join us.



Gary R. Wallace
Law Office of Gary R. Wallace
10801 National Boulevard, Suite 100
Los Angeles, CA 90064
Email: garywallace@ymail.com
Office: (310) 571-3511