

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 06, 2016

Hearing Room 1568

10:00 AM

**2:11-54302 Meir Asher**

**Chapter 7**

**#1.00** Arbitrator/Mediator for Trustee Fees - David A. Gill

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

Incorporated by reference at calendar number 4.

**Party Information**

**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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Chapter 7

#2.00 BOND PAYMENTS: INTERNATIONAL SURETIES

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

Incorporated by reference at calendar number 4.

**Party Information**

**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
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#3.00 CHARGES: U.S. Bankruptcy Court

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

Incorporated by reference at calendar number 4.

**Party Information**

**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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**#4.00** APPLICANT: Wesley Avery, Trustee

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

12/5/2016

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$83,250.00

Total Expenses: \$867.73

U.S. Bankruptcy Court charges: \$1,172.00

Bond Payments (International Sureties): \$348.43 (\$348.43 already paid)

Mediator Fees (David A. Gill): \$4,662.82

No appearance is required if submitting on the court's tentative ruling. To submit on the tentative ruling contact Daniel Koontz or Nathan Reinhardt, the Judge's law clerks, at 213-894-1522.

<b>Party Information</b>
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**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By

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**CONT... Meir Asher**

**Chapter 7**

Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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**#5.00 APPLICANT:** Law Offices of Michael Jay Berger

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

Pursuant to the chapter 7 trustee's motion to compromise [Doc. No. 323], which requested approval of a stipulation between Michael J. Berger and the trustee ("Stipulation"), regarding Mr. Berger's administrative fees under the Federal Rule of Bankruptcy Procedure 9019, and the Court's order approving the Stipulation [Doc. No. 329], the court approves the fees and expenses set forth below.

Fees: \$13,226.16

Expenses: \$0

No appearance is required if submitting on the court's tentative ruling. To submit on the tentative ruling contact Daniel Koontz or Nathan Reinhardt, the Judge's law clerks, at 213-894-1522.

**Party Information**

**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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#6.00 APPLICANT: CBIZ VALUATION GROUP, LLC

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$163,000.00

Expenses: \$0

No appearance is required if submitting on the court's tentative ruling. To submit on the tentative ruling contact Daniel Koontz or Nathan Reinhardt, the Judge's law clerks, at 213-894-1522.

<b>Party Information</b>
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**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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**Chapter 7**

**#7.00 APPLICANT: HAVKIN & SHRAGO, Attorney for Trustee**

Hearing re: [348] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

12/5/2016

Having reviewed the first and final application for fees and expenses filed by this applicant, the court approves the application and awards the fees and expenses set forth below.

Fees: \$612,853.92 (after a 4% voluntary deduction)

Expenses: \$16,089.02

No appearance is required if submitting on the court's tentative ruling. To submit on the tentative ruling contact Daniel Koontz or Nathan Reinhardt, the Judge's law clerks, at 213-894-1522.

<b>Party Information</b>
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**Debtor(s):**

Meir Asher

Represented By  
Edgar Martirosyan  
Leslie A Cohen

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Wesley H Avery (TR)  
Stella A Havkin  
Georgeann H Nicol

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**2:16-10943 Ariel Taymor**

**Chapter 7**

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**#8.00** Hearing  
RE: [18] Motion for an Order to Show Cause Why Michael Price and G. Jill Basinger, Esq. Should Not Be Held In Contempt of Court for Violation of the Debtors Discharge Injunctions

fr. 11-16-16

Docket No: 18

**Tentative Ruling:**

See Cal. No. 9, below, incorporated herein in full by reference.

<b>Party Information</b>
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**Debtor(s):**

Ariel Taymor

Represented By  
Leon D Bayer  
Marcus G Tiggs

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

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**2:16-10946 Ashleigh Jane Parsons**

**Chapter 7**

**#9.00** Hearing  
RE: [20] Motion for an Order to Show Cause Why Michael Price and G. Jill Basinger, Esq. Should Not Be Held In Contempt of Court for Violation of the Debtors Discharge Injunctions; Memorandum of Points and Authorities; Declaration of Ashleigh Jane Parsons; Declaration of Leon D. Bayer, and Declaration of Marcus G. Tiggs, In Support Thereof (with proof of service)

fr: 11-16-16

Docket No: 20

**Tentative Ruling:**

**12/5/2016**

For the reasons set forth below, the Court finds that Creditors' prosecution of the State Court Action against the Debtors violated the discharge injunction. To enforce the discharge injunction, the Court orders the Creditors to dismiss the State Court Action. The Court declines to impose sanctions upon the Creditors, as a review of the record shows that Creditors did not know that the discharge injunction applied to the claims asserted in the State Court Action.

**Pleadings Filed and Reviewed:**

- 1) Filed in Case No. 2:16-bk-10943-ER, Ariel Taymor [**Note 1**]:
  - a) Motion for an Order to Show Cause Why Michael Price and G. Jill Basinger, Esq. Should Not Be Held in Contempt of Court for Violation of the Debtor's Discharge Injunction [Doc. No. 18]
    - i) Notice of Motion [Doc. No. 19]
    - ii) Notice of Movants Request for Judicial Notice Pursuant to Federal Rules of Evidence §201 [Doc. No. 20]
  - b) Response in Opposition to Debtor's Motion for Order to Show Cause Why Michael Price and G. Jill Basinger Should Not Be Held in Contempt of Court for Violation of the Debtor's Discharge Injunction Doc. No. 25]

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CONT... **Ashleigh Jane Parsons**

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- 2) Filed in Case No. 2:16-bk-10946-ER, Ashleigh Parsons:
  - a) Motion for an Order to Show Cause Why Michael Price and G. Jill Basinger, Esq. Should Not Be Held in Contempt of Court for Violation of the Debtor's Discharge Injunction ("Motion") [Doc. No. 20]
    - i) Notice of Motion [Doc. No. 21]
    - ii) Notice of Movants Request for Judicial Notice Pursuant to Federal Rules of Evidence §201 [Doc. No. 22]
  - b) Response in Opposition to Debtor's Motion for Order to Show Cause Why Michael Price and G. Jill Basinger Should Not Be Held in Contempt of Court for Violation of the Debtor's Discharge Injunction ("Opposition") [Doc. No. 29]

### **I. Facts and Summary of Pleadings**

Ariel Taymor and Ashleigh Parsons (collectively, "Debtors") commenced separate voluntary Chapter 7 petitions on January 26, 2016. Prior to the petitions, Michael Price and his counsel G. Jill Basinger (collectively, "Creditors") commenced a civil action (the "State Court Action") against the Debtors and the Debtors' business, the Alma Restaurant Group Corporation ("Alma Restaurant"). The State Court Action alleged that Debtors had reneged on their agreement to grant Price a 20% ownership stake in the Alma Restaurant in exchange for Price's financial and business help operating the restaurant. The State Court Action sought monetary damages and specific performance compelling Debtors to grant Price a 20% ownership interest in the Alma Restaurant.

Debtors scheduled Price as a creditor and Price received notice of the Debtors' bankruptcy petitions. Price did not file dischargeability complaints against either of the Debtors. The Chapter 7 Trustee ("Trustee") filed Reports of No Distribution in both Debtors' cases, and both Debtors received discharges on May 9, 2016. The Discharge Orders were served upon Basinger, Price's counsel.

Alma Restaurant commenced a voluntary Chapter 7 petition December 29, 2015 (Case No. 2:15-bk-29394-TD). The Trustee filed a Report of No Distribution on March 1, 2016. Alma Restaurant's case was closed on June 28, 2016.

On June 23, 2016, Debtors' counsel sent Basinger a demand that the State Court Action be dismissed, in view of the Debtors' discharges. Basinger declined to dismiss the State Court Action. Basinger asserted that it appeared that the Debtors were continuing to operate a restaurant named Alma at the Standard Hotel, and suggested that the Debtors may have fraudulently conveyed Alma Restaurant's assets:

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**Ashleigh Jane Parsons**

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My issue is that Jason wrote and said this is a different Alma and that Alma is closed. Then I hear it's the same Alma only new address. Can someone clarify for me whether this is a unrelated entity or if there was a fraudulent conveyance of assets to this entity. We can always file a new lawsuit if that is the case. Let me know if this is an affiliated entity.

June 23 E-mail from Basinger to Debtors' Counsel (Opposition at Ex. 2).

Debtors' counsel responded that the restaurant where the Debtors were now working—called Alma at the Standard—was not related to Alma Restaurant:

It is not the same "Alma." It is not a related entity, although [Debtors] Ashleigh and Ari work there. As far as I know all assets of the "old" Alma were left at the Downtown location, fridge, tables, everything, and are in the possession of the old landlord. They don't even use the old phone number.

June 23 E-mail from Debtors' Counsel to Basinger (Opposition at Ex. 2).

Basinger then demanded that the Debtors supply declarations explaining that the two restaurants were unrelated. The Debtors declined to provide the requested declarations. Basinger continued to pursue the State Court Action, on the theory that the Debtors had fraudulently conveyed the name and goodwill of Alma Restaurant to the Standard Hotel. In a status report that Basinger submitted to the State Court on behalf of Price, Basinger argued that discovery should be permitted:

At a minimum, Price should be permitted to conduct limited discovery on Defendants [the Debtors] and the Standard Hotel in order to determine whether Defendants procured their employment at the Standard Hotel through any wrongdoing or fraudulently conveyed one of the most valuable assets of the Alma Restaurant, its name and goodwill, to the Standard Hotel before causing the Alma Restaurant to file for bankruptcy.

Accordingly, Price respectfully respects that the Court order limited discovery against Defendants and the Standard Hotel, in order to determine whether Defendants' bankruptcy proceedings and discharge were obtained by fraud.

Plaintiff Michael Price's Response to Defendants' Status Report Re Bankruptcy Stay (Opposition at Ex. 7).

The State Court issued an order permitting Basinger to proceed with the requested discovery, and scheduled a trial for June 2017. Basinger issued notices to the Debtors informing them of her intent to serve subpoenas on the Standard Hotel and its related companies. In response to the notices, Debtors informed Basinger that they would file motions to reopen their bankruptcy cases and seek sanctions for violation of the

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discharge injunction if the State Court Action were not dismissed. Basinger, who was recovering from the flu at the time, requested that the Debtors refrain from filing the motions to reopen and the motions for contempt until she could speak to her client Price regarding dismissal of the State Court Action. Debtors filed the motions to reopen, but agreed to wait until Basinger could speak with Price before filing the motions for contempt. In view of the Debtors' threats to seek contempt sanctions, Basinger did not actually serve any of the subpoenas.

On October 6, 2016, Basinger sent Debtors' counsel the following e-mail:

As we stated, we will dismiss the state court action. However, as I have stated in our prior calls, we are concerned that your clients [the Debtors] fraudulently conveyed the assets relating to Alma, including the intellectual property rights. In order to assess the potential claim, please let us know when and how your clients acquired the IP rights to Alma, such that The Standard now can use the name (and goodwill) of the Alma Restaurant. We are contemplating filing a separate fraudulent conveyance action, and your response will guide our thinking.

October 6 E-mail from Basinger to Debtors' Counsel (Opposition at Ex. 14).

On October 22, 2016, Debtors filed the instant motions, seeking the issuance of an order requiring Basinger and Price to appear and show cause why they should not be held in contempt for violating the Debtors' discharge injunctions. Debtors assert that contempt sanctions are warranted because Basinger and Price have continued to prosecute the State Court Action, notwithstanding their awareness of the Debtors' discharges. Debtors seek an order holding Basinger and Price in contempt, requiring dismissal of the State Court Action, and awarding compensatory and punitive damages. Both Debtors submit declarations stating that the stress of defending against the State Court Action has exacerbated their health problems.

Basinger and Price (collectively, "Creditors") oppose the imposition of contempt sanctions. Creditors state that they were unaware that the discharge injunctions applied to Price's claim for 20% of the Alma Restaurant:

To the extent that the Alma restaurant operating out of the Standard Hotel is merely a continuation of the Alma Restaurant to which Price claims a 20% ownership interest, the action would not necessarily constitute a claim that was discharged in bankruptcy because Price could seek the right to use the name "Alma" or to preclude the Standard Hotel from utilizing the name....

Price could also file a separate lawsuit against the Standard Hotel for avoidance and recovery of fraudulent transfer pursuant to California Civil

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Code §§ 3439.04, 3439.05 and/or 3439.07 if the information disclosed that the Standard Hotel's use of the name "Alma" was the result of a fraudulent transfer to avoid Debtor and Parsons' contractual obligations to Price....

Creditors' conduct, including pursuing only limited discovery relating to the status of the Alma Restaurant in the State Court Action, demonstrates their subject[ive] belief that the discharge injunction might not apply to Price's pre-petition claim.

Opposition at 8–9.

Creditors contend that that the Debtors are to blame for any legal fees incurred in seeking contempt sanctions, on the theory that the instant Motion could have been avoided had the Debtors been more responsive to the Creditors' request for information about the alleged fraudulent transfer of Alma's name and goodwill. Creditors further note that Debtors have not been forced to incur additional fees in the State Court Action as a result of Creditors' decision to not conduct discovery until the instant Motion has been resolved.

## **II. Findings and Conclusions**

### **Basinger and Price's Continued Prosecution of the State Court Action Violated the Discharge Injunction**

Creditors who received notice of the petition are required to file a dischargeability complaint within sixty days of the meeting of creditors. Bankruptcy Rule 4007(c). If creditors fail to timely file a dischargeability complaint, their indebtedness is discharged, even if it falls within one of the categories of debt that is non-dischargeable. **[Note 2]** This result follows from the plain language of §523(c)(1), which provides:

Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt of a kind specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of a creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

*See also Fidelity Nat'l Title Ins. Co. v. Franklin (In re Franklin)*, 179 B.R. 913, 923-24 (Bankr. E.D. Cal. 1995) (“[I]f the debt to [the creditor] Fidelity had been listed or scheduled or if Fidelity had notice of Franklin's bankruptcy, it would have needed to act promptly to request a determination that the debt is nondischargeable ... or else the debt would have been discharged”). A scheduled creditor who does not timely file

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a dischargeability complaint and thereafter seeks to collect upon the creditor's prepetition debt acts in violation of the discharge injunction. *See* §524(a)(2) ("A discharge in a case under this title ... operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt [debts discharged] as a personal liability of the debtor ....").

Here, Price received notice of Debtors' bankruptcy petitions. Price did not timely commence a dischargeability action against either Debtor. As a result, the claims in the State Court Action, which all arose prepetition, have been discharged. There is no merit to Price's theory that he has a post-petition claim against the Debtors, based on the Debtors' alleged post-petition fraudulent transfer of the Alma Restaurant's name and goodwill to the Standard Hotel. The reason is that Price's fraudulent transfer claim arises from and is dependent upon Price's prepetition claims for breach of contract. Those pre-petition breach of contract claims have been discharged. Because the fraudulent transfer claims cannot exist absent the breach of contract claims, [Note 3] they too have been discharged—regardless of whether the alleged fraudulent transfer occurred pre-petition or post-petition. Said another way, the Debtors have been discharged of all claims that emanate from the alleged pre-petition breach of contract, which includes the fraudulent transfer claims. Given that all of Price's claims against the Debtors in the State Court Action have been discharged, Price's continued prosecution of that action violated the discharge injunction.

**The Court Will Not Impose Contempt Sanctions Because Price and Basinger Did Not Know that the Discharge Injunction Applied to Their Claims**

To justify sanctions for violation of the discharge injunction, Debtor must prove "that the creditor (1) knew the discharge injunction was applicable and (2) intended the actions which violated the injunction." *Renwick v. Bennett (In re Bennett)*, 298 F.3d 1059, 1069 (9th Cir. 2002). With respect to the knowledge requirement contained in the first prong of the test, the Ninth Circuit Bankruptcy Appellate Panel has summarized binding Ninth Circuit precedent as follows:

[W]hether a party has actual knowledge of the injunction is a fact-based inquiry and must be found; it can neither be presumed nor imputed.... [T]here must be evidence showing that the alleged contemnor was aware of the discharge injunction and that it was applicable to his or her claim.... Whether a party is aware that the discharge injunction is applicable to his or her claim is a fact-based inquiry which implicates a party's subjective belief, even an

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unreasonable one. Of course, subjective self-serving testimony may not be enough to rebut actual knowledge when the undisputed facts show otherwise. *Emmert v. Taggart (In re Taggart)*, 548 B.R. 275, 287 (B.A.P. 9th Cir. 2016) (restating the standards set forth by the Ninth Circuit in *Zilog v. Corning (In re Zilog, Inc.)*, 450 F.3d 996, 1007–10 (9th Cir. 2006)). It is not enough that the alleged contemnor should have been aware that the discharge injunction was applicable to his claim. In *Zilog v. Corning (In re Zilog, Inc.)*, the Ninth Circuit declined to hold several women in contempt, based on the fact that the record did not show that they had actual knowledge of the applicability of the discharge injunction:

As noted, the women here dispute knowing of the discharge injunction. That a competent lawyer should have known about the injunction after diligent inquiry is not dispositive. The creditor's lawyer in *Dyer* no doubt *should* have known about the existence of the automatic stay, which he could easily have discovered by doing elementary legal research. Nevertheless, we declined to affirm the contempt sanctions on this basis because the lawyer "may not have been familiar with that particular Code provision." There is nothing remarkable or surprising about this aspect of *Dyer*; it simply reiterates the well-established proposition that only actual knowledge of the discharge injunction suffices for a finding of contempt. . . . To be held in contempt, the women must not only have been aware of the discharge injunction, but must also have been aware that the injunction applied to their claims. To the extent that the deficient notices led the women to believe, even unreasonably, that the discharge injunction did not apply to their claims because they were not affected by the bankruptcy, this would preclude a finding of willfulness.

*Zilog*, 450 F.3d 996, 1010 (9th Cir. 2006).

With respect to the second prong of the test—whether the creditor intended the actions which violated the injunction—the analysis is the same as a finding of willfulness in connection with violation of the automatic stay under §365(k). *Taggart*, 548 B.R. at 288. That is, the creditor must know of the discharge injunction, and the creditor's actions which violated the discharge injunction must be intentional. *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1191 (9th Cir. 2003) (setting forth the standard for determining whether a stay violation is willful under §365(k)).

While there is no dispute that Creditors were aware of the Debtors' discharge, the evidence does not show that Creditors were aware that the discharge injunction was applicable to their claims. *See Zilog*, 450 F.3d 1009 ("To be held in contempt, the women must not only have been aware of the discharge injunction, but must also have

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been aware that the injunction applied to their claims.”). Papers filed by Basinger on behalf of Price in both the State Court Action and before this Court indicate a lack of familiarity with the bankruptcy process, including a fundamental misunderstanding of the discharge injunction and its operation. For example, in papers filed in opposition to this Motion, Basinger stated: "Creditors’ conduct, including pursuing only limited discovery relating to the status of the Alma Restaurant in the State Court Action, demonstrates their subject[ive] believe that the discharge injunction might not apply to Price’s pre-petition claim." Opposition at 9. It is axiomatic that the discharge injunction applies to all pre-petition claims for breach of contract, such as Price’s claim, unless a dischargeability action was timely filed. Thus, Creditors’ statement "that the discharge injunction might not apply to Price’s pre-petition claim" shows a fundamental misunderstanding of the discharge injunction’s operation. Basinger’s unfamiliarity with the bankruptcy process is further exemplified by a notice of the State Court’s ruling that Basinger filed (the "Notice of Ruling"), which provided in part: "The [state] Court further ordered that the Bankruptcy stay is lifted, and Plaintiff can proceed with discovery." The Notice of Ruling incorrectly presupposes that a state court has the authority to lift the automatic stay imposed by the filing of a bankruptcy petition. Further, at the time Basinger filed the Notice of Ruling the automatic stay had terminated by operation of law as a result of the closing of the Debtors’ cases, and it was the discharge injunction, not the automatic stay, that barred further discovery in connection with Price’s prepetition claims. Basinger’s erroneous beliefs as to the applicability of the discharge injunction were reinforced when the State Court, which was aware of the Debtors’ discharges, permitted discovery to go forward. Upon review of the detailed record before it, the Court is convinced that Basinger’s misunderstanding as to the applicability of the discharge injunction is genuine, not feigned in an attempt to avoid sanctions. **[Note 4]**

Civil compensatory contempt sanctions for violation of the discharge injunction can be imposed only if the alleged contemnor knows that the discharge injunction applies to his claims. **[Note 5]** Sanctions may not be imposed even if the alleged contemnor’s belief as to the inapplicability of the discharge injunction is unreasonable. *See Zilog v. Corning (In re Zilog, Inc.)*, 450 F.3d 996, 1009 (9th Cir. 2006); *see also Taggart*, 548 B.R. at 287 ("Whether a party is aware that the discharge injunction is applicable to his or her claim is a fact-based inquiry which implicates a party’s subjective belief, even an unreasonable one.”). As explained above, Creditors were under the mistaken belief that the discharge injunction did not apply to their claims. Consequently, under the binding Ninth Circuit precedent set forth in *Zilog*, the

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Court cannot impose contempt sanctions or punitive damages, and will not issue an order requiring the Creditors to show cause why contempt sanctions should not be issued. **[Note 6]** To vindicate the discharge injunction, the Court will order the Creditors to dismiss the Debtors from the State Court Action.

The Debtors shall submit conforming orders, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Nathaniel Reinhardt or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

**Note 1**

Identical papers were filed in the cases of Ariel Taymor and Ashleigh Parsons, and the facts concerning the alleged violation of the discharge injunction are the same in both cases. This tentative ruling applies to the motions filed in both cases. Unless otherwise indicated, all citations to the docket are to the case of Ariel Taymor, Case No. 2:16-bk-10943-ER.

**Note 2**

Not all creditors are required to file a dischargeability complaint to avoid having their debts discharged. Certain types of debts—for example, tax debts, student loan debts, and debts for domestic support obligations, among others—are automatically excepted from discharge even if no complaint objecting to dischargeability is filed. However, the debt at issue here does not fall within any of the categories of debts that are automatically excepted from discharge.

**Note 3**

Price's alleged entitlement to Alma Restaurant's assets is predicated upon his breach of contract claim. Absent the breach of contract claim, Price has no ability to

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**CONT... Ashleigh Jane Parsons**

**Chapter 7**

claim an ownership interest in Alma Restaurant's assets, and therefore no ability to allege that those assets were fraudulently transferred.

**Note 4**

Although knowledge of the applicability of the discharge injunction "is a question of fact that can normally be resolved only after an evidentiary hearing," *Zilog*, 540 F.3d at 1007, the current record contains sufficient information for the Court to determine that the Creditors did not know that the discharge injunction applied to their claims. An evidentiary hearing is therefore unnecessary. The record reviewed by the Court includes a lengthy chain of e-mails between Basinger and the Debtors' counsel regarding the applicability of the discharge injunction, Basinger's declaration testimony, and papers filed by Basinger on behalf of Price in the State Court Action.

**Note 5**

Because the Court finds that Creditors did not know the discharge injunction was applicable to their claims, the Court does not reach the second prong of the test (whether the Creditors intended the actions which violated the injunction).

**Note 6**

The Court emphasizes that a result of its ruling, Creditors are now fully aware that the discharge injunction bars the prosecution against the Debtors of any claims which arise from or are related to the Debtors' alleged pre-petition breach of contract with Price. This includes the prosecution of any claims pertaining to an alleged fraudulent transfer of Alma Restaurant's name and goodwill to The Standard.

**Party Information**

**Debtor(s):**

Ashleigh Jane Parsons

Represented By  
Leon D Bayer  
Marcus G Tiggs

**Trustee(s):**

David A Gill (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 06, 2016

Hearing Room 1568

10:00 AM

**2:16-12347 Pedro Cortez, Jr.**

**Chapter 7**

**#10.00** APPLICANT: WESLEY H AVERY, Trustee

Hearing re [22] Trustee's Final Report and Applications for Compensation

Docket No: 0

**Tentative Ruling:**

No objection has been filed in response to the Trustee's Final Report. This court approves the fees and expenses, and payment, as requested by the Trustee, as follows:

Total Fees: \$1,300.00

Total Expenses: \$162.40

No appearance is required if submitting on the court's tentative ruling. To submit on the tentative ruling contact Daniel Koontz or Nathan Reinhardt, the Judge's law clerks, at 213-894-1522.

<b>Party Information</b>
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**Debtor(s):**

Pedro Cortez Jr.

Represented By  
Gary Leibowitz

**Trustee(s):**

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 06, 2016

Hearing Room 1568

10:00 AM

**2:16-19069 Robert Bassem Dorian**

**Chapter 7**

Adv#: 2:16-01456 Chaaban et al v. Dorian et al

▪

**#11.00** Hearing  
RE: [12] Motion to Dismiss Adversary Proceeding "Notice Of Motion And Motion To Dismiss 'Complaint Objecting To Discharge Of Debt And Requesting Determination Of Dischargeability Pursuant To 11 U.S.C. §523(a) (2) (A), §523 (a) (6), And §523(a) (19) (A)'; Memorandum Of Points And Authorities In Support Thereof"

Docket No: 12

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 12-1-16**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Robert Bassem Dorian

Represented By  
David H Chung

**Defendant(s):**

Nadeen AbouZanad Dorian

Represented By  
Raymond H. Aver

Robert Bassem Dorian

Represented By  
Raymond H. Aver

**Joint Debtor(s):**

Nadeen AbouZanad Dorian

Represented By  
David H Chung

**Plaintiff(s):**

Walid Chaaban

Represented By  
David J Habib Jr

Wissam Elbayoud

Represented By  
David J Habib Jr

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

**Tuesday, December 06, 2016**

**Hearing Room 1568**

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10:00 AM

**CONT... Robert Bassem Dorian**

**Chapter 7**

**Trustee(s):**

Howard M Ehrenberg (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Ernest Robles, Presiding  
Courtroom 1568 Calendar**

Tuesday, December 06, 2016

Hearing Room 1568

10:00 AM

**2:14-31703 Ravinder Kumar Bhatia and Johanna Arias Bhatia**

**Chapter 11**

■  
**#12.00** Status Hearing re [130] post confirmation status conference

Docket No: 0

**Tentative Ruling:**

12/5/2016

No appearance required.

This is a post-confirmation status conference. Upon review of the Status Report, the Court continues the status conference to June 6, 2016 at 10:00 a.m. A further post-confirmation status report is due 14 days prior to the hearing.

<b>Party Information</b>
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**Debtor(s):**

Ravinder Kumar Bhatia

Represented By  
Giovanni Orantes

**Joint Debtor(s):**

Johanna Arias Bhatia

Represented By  
Giovanni Orantes