

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Tuesday, April 1, 2025

Hearing Room 303

2:00 PM

6: -

Chapter

#0.00 Judge Reyes Bordeaux will hold hearings in person and remotely via Zoom.gov.

In person Appearance Policies

Parties may appear in person for hearings at United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, CA 92501 in Courtroom 303. Parties appearing in person must wear face masks, practice social distancing, and comply with all applicable guidelines of the United States Bankruptcy Court, Central District of California, and any additional requirements required under California State Law at the time of the hearing. Please note that Judge Reyes Bordeaux will not be wearing a mask.

Remote Appearance Policies

Parties may also appear remotely for hearings using ZoomGov, which permits parties to appear by video or by telephone. Hearing participants and members of the public may use ZoomGov free of charge to connect to hearings before Judge Reyes Bordeaux. Video and audio connection information for hearing(s) on this calendar is listed below.

Individuals may use a personal computer (equipped with camera, microphone and speaker), or a mobile device (such as an iPhone) to appear by ZoomGov video and ZoomGov audio. Individuals may also use a telephone to appear by ZoomGov audio only (standard telephone charges may apply). A Zoom or ZoomGov account is not necessary to connect to the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

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Video/audio web address: <https://cacb.zoomgov.com/s/1617286588>

ZoomGov Meeting ID Number: 161 728 6588

Meeting Passcode: 3032025

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Reyes Bordeaux by ZoomGov, please see the information entitled "Procedures for Video & Telephonic Appearances" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-magdalena-reyes-bordeaux> under the tab "Phone/Video Appearances."

Docket 0

Tentative Ruling:

- NONE LISTED -

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6:24-16538 Brandon Scott Gatewood

Chapter 7

Adv#: 6:25-01014 Johnson v. Gatewood

#1.00 CONT Motion for Judgment on the Pleadings

From: 3/25/25

EH____

Docket 10

Tentative Ruling:

After reviewing the *Complaint filed by Plaintiff Michael Johnson*, ECF Adv. Doc. 1, the *Notice of Hearing Defendant's Notice of Motion for Judgment on the Pleadings*, ECF Adv. Doc. 6 and *Defendant's Motion for Judgment on the Pleadings*, ECF Adv. Doc. 10, the Court's tentative is to GRANT Defendant's *Motion for Judgment on the Pleadings* and DENY Defendant's Request that such motion be denied with prejudice. Accordingly, *Defendant's Motion for Judgment on the Pleadings* is GRANTED with leave to amend. *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (As a general rule, leave to amend a dismissed complaint should be freely granted unless it is clear the complaint could not be saved by any amendment). *SG Blocks, Inc. v. Hola Cmty. Partners*, 521 F. Supp. 3d 881, 890 (C.D. Cal. 2021) ("If judgment on the pleadings is appropriate, a court has discretion to grant the non-moving party leave to amend").

I. Procedural Background:

State Court Action

On May 13, 2023, Plaintiff Michael Johnson ("Plaintiff") obtained a judgment against Defendant Brandon Scott Gatewood ("Defendant") in the total amount of \$337,541.55, from the Superior Court of California, County of Los Angeles. *Id.* Defendant then appealed the original judgment, however, the Court of Appeal's denied Defendant's appeal, thereby affirming the judgment. *Id.* Defendant then

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initiated a lawsuit in an attempt to have Plaintiff's judgment overturned. This lawsuit was unsuccessful. Defendant has now appealed that lawsuit. *Id.* The appeal is still open and had a court hearing date on March 11, 2025.

Chapter 7 Bankruptcy Case

On October 31, 2025, Defendant filed a Chapter 7 bankruptcy case. BK Dkt. 1.

Adversary Proceeding

On February 3, 2025, Plaintiff filed an adversary proceeding to deem debt nondischargeable under 11 U.S.C. Section 523(a)(6) and to deny Debtor's discharge under 11 U.S.C. Section 727(a)(2)(a). ADV. Dkt. 1.

Motion for Judgment on the Pleadings

On February 11, 2025, Defendant filed a Motion for Judgment on the Pleadings. ADV. Dkt. 13. The motion was originally set for hearing on March 25, 2025, and was then continued to April 1, 2025. ADV. Dkt. 13.

II. Legal Analysis

A. Debtor's Motion for Judgment on the Pleadings Under Fed. R. Civ. P. 12(c)

Fed. R. Civ. P. 12(c), made applicable in bankruptcy proceedings under Fed. R. Bankr. P. 7012(b), sets forth that:

"After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings."

Fed. R. C.P. 12(c).

A motion for judgment on the pleadings under Rule 12(c) challenges the sufficiency of the pleadings. *Cabral v. Cty. of Glenn*, 2008 U.S. Dist. LEXIS 93344 (E.D. Cal. Nov. 14, 2008). Any party may move for judgment on the pleadings after the pleadings are

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Chapter 7

closed but within such time as to not delay trial. As Rule 12(b)(6) motions and Rule 12(c) motions are functionally identical, "the same standard of review applicable to a Rule 12(b) motion applies to its Rule 12(c) analog." *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989).

A motion for judgment on the pleadings should only be granted if, accepting as true all material allegations contained in the nonmoving party's pleadings, the moving party "clearly establishes that no material issue of fact remains to be resolved and that he [or she] is entitled to judgment as a matter of law." *Cabral v. Cty. of Glenn*, 2008 U.S. Dist. LEXIS 93344 (E.D. Cal. Nov. 14, 2008) (quoting *Doleman v. Meiji Mut. Life Ins. Co.*, 727 F.2d 1480, 1482 (9th Cir. 1984)). Moreover, a "court may consider the parties' pleadings, any documents attached to those pleadings or incorporated by reference, and any documents properly subject to judicial notice." *In re Bohrer*, 628 B.R. 676, 682 (Bankr. S.D. Cal. 2021).

Judgment on the pleadings is proper when there is either a lack of cognizable legal theory or the ***absence of sufficient facts alleged under a cognizable legal theory***. *Id.* (citing *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1988)) (emphasis added).

1. Plaintiff's Claim Under 11 U.S.C. § 523(a)(6)

11 U.S.C. Section 523(a)(6) prevents a discharge of a debt "for willful and malicious injury by debtor to another entity or to the property of another entity." Willfulness and maliciousness must both be proven to prevent a discharge of debt under 11 U.S.C. Section 523(a)(6). See *Ormsby v. First American Title Co. (In re Ormsby)*, 591 F.3d 1199, 1206 (9th Cir. 2010). Reckless or negligent acts are not sufficient to establish liability under Section 523(a)(6). See *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998).

a. *Willful Standard*

A willful injury occurs only when debtor has a "subjective motive to inflict injury or when the debtor believes that injury is substantially certain to result from his own

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conduct." *Carrillo v. Su (In re Su)*, 290 F.3d 1140, 1142 (9th Cir. 2002). "[W]hen determining the debtor's intent under § 523(a)(6), there is a presumption that the debtor knows the natural consequences of his actions." *In re Adkins*, No. 2:17-AP-01223-BTB, 2019 WL 1070836, 7 (B.A.P. 9th Cir. Mar. 5, 2019) (citing *In re Ormsby*). Subjective intent may be gleaned from objective factors and circumstantial evidence which tends to establish what the debtor must have actually known when taking the injury-producing action. *Id.*

b. *Malicious Standard*

"A malicious injury involves (1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse." *Petralia v. Jercich (In re Jercich)*, 238 F.3d 1202, 1209 (9th Cir. 2001).

Here, Plaintiff asserts Defendant's initiation of a bankruptcy proceeding reflects a willful and malicious injury. However, simply pursuing a bankruptcy action, is insufficient to meet the willfulness and maliciousness standard. A debtor, simply exercising their right under federal law to initiate a bankruptcy is not an intentional injury. *Gerardo v. Petrow (In re Petrow)*, 2013 Bankr. LEXIS 4427 (Bankr. D.N.J. Oct. 23, 2013).

Plaintiff further asserts that "[d]efendant's actions giving rise to Plaintiff's judgment were both malicious and willful, as they involved intentional harm to plaintiff, as plaintiff was fired for trying to help defendant." However, Plaintiff does not allege specific conduct or allege specific allegations Defendant engaged in that were both malicious and willful. Without specific allegations, it is not possible for this court to determine whether actions meet the required standard for maliciousness and willfulness.

Finally, Plaintiff appears to allege that Defendant engaged in wrongful termination. *Id.* (stating that "Defendant's actions in wrongful termination and subsequent efforts to avoid judgment..."). Here, Plaintiff alleges Defendant engaged in wrongful termination without providing specific allegations to factually support these assertions. As a result, the bankruptcy court does not have the necessary evidence to

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determine whether the wrongful termination satisfies the willfulness and maliciousness standard required for nondischargeability under Section 523(a)(6).

Since Plaintiff has failed to allege sufficient facts for this court to make a determination that this debt is nondischargeable under Section 523(a)(6), Defendant's motion for judgment on the pleadings on Plaintiff's claim under 11 U.S.C. § 523(a)(6) is granted with leave to amend.

2. Plaintiff's Claim Under 11 U.S.C. § 727(a)(2)(A)

Section 727(a)(2)(A) of the Bankruptcy Code provides:

- (a) The court shall grant the debtor a discharge, unless-
- (2) the debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charged with custody of property under this title, has transferred, removed, destroyed, mutilated, concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed -
- (A) property of the debtor, within one year before the date of the filing of the petition

Under 11 U.S.C. § 727(a)(2)(A), a Plaintiff must show that:

- (1) the debtor transferred or concealed property;
- (2) the property belonged to the debtor;
- (3) the transfer occurred within one year of the bankruptcy filing; and
- (4) the debtor executed the transfer with the intent to hinder, delay or defraud a creditor.

In re Aubrey, 111 B.R. 268, 273 (9th Cir. BAP 1990).

Here, Plaintiff's complaint fails to allege facts indicating that (1) debtor transferred concealed property; (2) the property was property of the debtor; (3) the transfer occurred "within one year" before the bankruptcy was filed; and (4) the debtor executed transfer with intent to hinder, delay, or defraud a creditor.

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Although Plaintiff alleges Defendant's actions of filing for bankruptcy and appealing State Court judgment demonstrate an intent to hinder or defraud Plaintiff, it is unclear to this Court why Plaintiff contends this is to be so. Merely exercising legal rights, such as filing for bankruptcy or appealing a judgment, does not, by itself, demonstrate an intention to hinder or defraud.

Since Plaintiff has failed to allege sufficient facts for this court to make a determination under 11 U.S.C. § 727(a)(2)(A), Defendant's motion for judgment on the pleadings on Plaintiff's claim under 11 U.S.C. § 727(a)(2)(A), is granted with leave to amend.

Party Information

Debtor(s):

Brandon Scott Gatewood

Represented By
Shawn Anthony Doan

Defendant(s):

Brandon Scott Gatewood

Represented By
Robert W. Tiangco

Movant(s):

Brandon Scott Gatewood

Represented By
Robert W. Tiangco

Plaintiff(s):

Michael Johnson

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:24-13159 Xing Wu

Chapter 13

Adv#: 6:24-01074 J & J Real Estate Investment Fund LLC v. Wu

#2.00 CONT Defendant's Motion for Order Dismissing all Claims of Plaintiff's Complaint for Lack of Subject Matter Jurisdiction (Rule 12(b)1)

From: 1/14/25, 1/21/25, 1/28/25, 3/11/25, 3/18/25, 3/25/25

Also #3

EH__

Docket 15

Tentative Ruling:

After review of Defendant's Motion to Dismiss Adversary Proceeding for Lack of Subject Matter Jurisdiction under Fed. R. Civ. P. 12(b)(1), ADV. Dkt. 15; Declaration re: Michael Smith, ADV. Dkt. 19; Plaintiff's Brief Opposition to Motion to Dismiss, ADV. Dkt. 28; Plaintiff's Request for Judicial Notice in Support of Opposition to Motion to Dismiss, ADV. Dkt. 28; Defendant's Reply to Plaintiff's Brief, ADV. Dkt. 36; Defendant's Supplemental Brief, ADV. Dkt. 46; Plaintiff's Brief Supplement for Opposition to Defendant's Motion to Dismiss, ADV. Dkt. 49; and Plaintiff's Request for Judicial Notice in Support of Supplemental Brief for Opposition to Defendant's Motion to Dismiss, ADV. Dkt. 50, the Court's tentative is to DENY Defendant's Motion for Lack of Subject Matter Subject Matter Jurisdiction Under Fed. R. Civ. P. 12(b)(1).

Party Information

Debtor(s):

Xing Wu

Represented By
Michael Smith

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CONT... Xing Wu

Chapter 13

Defendant(s):

Xing Wu

Represented By
Michael Smith

Movant(s):

Xing Wu

Represented By
Michael Smith

Plaintiff(s):

J & J Real Estate Investment Fund

Represented By
Xiaoyong Lai

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:24-13159 Xing Wu

Chapter 13

Adv#: 6:24-01074 J & J Real Estate Investment Fund LLC v. Wu

#3.00 CONT Status Conference re: Complaint by J & J Real Estate Investment Fund LLC against Xing Wu. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(41 (Objection / revocation of discharge - 727(c),(d),(e))

From: 12/16/24, 12/23/24, 1/14/25, 1/21/25, 1/28/25, 3/11/25, 3/18//25, 3/25/25

Also #2

EH____

Docket 1

Tentative Ruling:

Appearances Required.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.

Party Information

Debtor(s):

Xing Wu

Represented By
Michael Smith

Defendant(s):

Xing Wu

Represented By
Michael Smith

Plaintiff(s):

J & J Real Estate Investment Fund

Represented By
Xiaoyong Lai

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Trustee(s):

Rod Danielson (TR)

Pro Se