NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re:	BAP No. EC-08-1199-HJuMk
MARTIN A. YACK; HELEN M. YACK, Debtors.	Bk. No. 07-25642
MARTIN A. YACK; HELEN M. YACK, Appellants,	
v.	**M E M O R A N D U M**[1]
MICHAEL P. DACQUISTO, Trustee; WASHINGTON MUTUAL BANK; U.S. TRUSTEE, Appellees.	

Argued and Submitted on January 22, 2009
at San Francisco, California

Filed - February 18, 2009

Appeal from the United States Bankruptcy Court
for the Eastern District of California

Honorable Christopher M. Klein, Chief Bankruptcy Judge, Presiding

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Before: HOLLOWELL, JURY and MARKELL, Bankruptcy Judges.

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[1] This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8013-1.

Martin and Helen Yack ("Debtors") appeal a bankruptcy court order denying their request for abandonment of the bankruptcy estate's interest in a lawsuit -- a putative class action involving monetary and non-monetary claims --filed by the Debtors against one of their creditors. We AFFIRM the bankruptcy court's order.

I. FACTS

Debtors filed for chapter 7 bankruptcy relief on July 20, 2007.[2] Michael Dacquisto was appointed as trustee ("Trustee"). On their bankruptcy schedules, Debtors did not list any contingent or unliquidated claims or any claims or causes of action on their Schedule B of personal property. The Debtors were granted a discharge in their no asset case and the bankruptcy case was closed on November 16, 2007.

Two days after their chapter 7 case was closed, on November 19, 2007, Debtors commenced an action in the Northern District of California ("District Court Action"), based upon events that occurred prior to the bankruptcy case involving their bank, Washington Mutual ("WaMu")[3] (these events will be referred to for ease of reference as giving rise to "Debtors' Claims").

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[2] Unless otherwise indicated, all chapter, "Code," and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532 and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037.

[3] On September 25, 2008, the United States Office of Thrift Supervision seized Washington Mutual Bank from Washington Mutual, Inc. and placed it into a Federal Deposit Insurance Corporation (FDIC) receivership. The FDIC, as receiver, then immediately sold the banking subsidiaries, including Washington Mutual Bank that is a party here, to JPMorgan Chase. The bank reopened the next day. The holding company, Washington Mutual, Inc., filed bankruptcy the next day, September 26, in Delaware, where it is incorporated, and is not a party to this appeal.

Debtors were long-time customers of WaMu. For many years, Martin Yack's pension and social security benefits were directly deposited into Debtors' WaMu checking account. On November 20, 2006, pursuant to a notice of levy, WaMu withdrew $237.00 from Debtors' checking account and collected a $75.00 processing fee. The levy was obtained by a debt collection agency, Sunlan-020105 ("Sunlan"), which had a judgment against Debtors in the amount of $10,383.61 for unpaid credit card debt. Sunlan obtained a Writ of Execution in Butte County, California and sent the Writ to the Sheriff's Office in Los Angeles County, California, which in turn, sent a notice of levy to WaMu.

There is some dispute about what happened after WaMu withdrew funds from Debtors' account: the Debtors allege that although they informed WaMu the money in the account was pension and social security funds, not subject to attachment, WaMu denied them use of their money until February 2007. WaMu alleges the money was never delivered to the Sheriff's Office pursuant to the levy and that all funds were credited back to the account on November 28, 2006.[4]

Just shy of a year after these events occurred, Debtors filed the District Court Action against WaMu, Sunlan, the Butte County Clerk's Office and the Los Angeles County Sheriff's Department. Helen and Martin Yack, et. al v. Wash. Mut. Inc., et. al., Case No. C07-5858-PJH. The Debtors alleged seven different causes of action related to the November 2006 events: (1) a Fair Debt Collection Practices Act claim against WaMu and

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[4] The Debtors were later featured in a front page article in The Wall Street Journal, on April 29, 2007, about individuals whose social security benefits had been wrongfully attached.

Sunlan; (2) a claim under the Anti-Attachment provision of the Social Security Act against all defendants; (3) a claim for violation of § 704.080 of the Cal. Civ. Code against WaMu; (4) a claim for violation of Cal. Civ. Code § 1788.10 et. seq.; (5) a claim for unfair business practices under Cal. Bus. & Prof. Code § 17200 et. seq.; (6) a claim under the Due Process and Supremacy Clauses; and (7) a 42 U.S.C. § 1983 claim both against the Los Angeles County Sheriff's Office and Butte County Clerk's Office ("Amended Complaint").

WaMu and Sunlan filed a joint motion to dismiss the District Court Action for failure to state a claim and lack of subject matter jurisdiction. Los Angeles County Sheriff's Office also filed a motion to dismiss for failure to state a claim and joined in WaMu's and Sunlan's motion to dismiss for lack of subject matter jurisdiction.[5]

On April 23, 2008 (while the District Court Action was pending), Debtors filed a Motion to Reopen their chapter 7 bankruptcy case "for the purpose of notifying the court that the debtors are plaintiffs in a class action" and "to determine whether the estate should be substituted for the debtors in the litigation." Debtors' Motion to Reopen was prompted by correspondence between WaMu's attorney and Debtors' counsel regarding Debtors' failure to schedule Debtors' Claims in their bankruptcy case, as well as the motions to dismiss filed in the District Court Action. The Motion to Reopen was granted April 28, 2008 and the Trustee was appointed on May 2, 2008.

[5] Butte County did not appear in the District Court Action; there is no proof it was properly served.

On May 12, 2008, the Debtors filed a Motion to Request Abandonment Pursuant to Bankruptcy Rule 6007 ("Abandonment Motion"), seeking the abandonment of the bankruptcy estate's interest in Debtors' Claims. The Trustee sent a letter to Debtors on May 27, 2008 indicating he had no objection to the Abandonment Motion. WaMu filed an opposition, contending Debtors' Claims held value for the estate. The Trustee then withdrew his letter and filed a response and opposition to the Abandonment Motion, stating he required more time to evaluate Debtors' Claims. The bankruptcy court heard the matter on June 10, 2008. Counsel for Debtors did not appear. The bankruptcy court entered a minute order denying the Abandonment Motion without prejudice on June 13, 2008.[6]

On June 20, 2008, Debtors filed a Renewed Motion to Request Abandonment Pursuant to Bankruptcy Rule 6007 ("Renewed Abandonment Motion"), docketed as a Motion for Reconsideration. WaMu again filed an opposition, as did the Trustee. Debtors filed a reply, and the matter was heard on July 21, 2008. By the time of the hearing on the Renewed Abandonment Motion, the Trustee was engaged in negotiations to sell or compromise Debtors' Claims with WaMu for a sum that would provide a substantial distribution to unsecured creditors.[7]

Prior to the hearing in the bankruptcy court, on June 23, 2008, the District Court Action was dismissed in its entirety

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[6] At the June 10, 2008 hearing, the bankruptcy court issued findings of fact and conclusions of law orally on the record. No transcript of the proceeding is available either in the Excerpt of Record or on the bankruptcy case docket.

[7] At oral argument, the Trustee informed the Panel that negotiations are on-going.

with prejudice. The district court found that because the Debtors failed to disclose Debtors' Claims in the bankruptcy proceedings, they (1) lacked standing to pursue Debtors' Claims, and (2) were judicially estopped from proceeding with Debtors' Claims against the defendants ("District Court Dismissal Order").

At the July 21, 2008 hearing, the bankruptcy court noted that since the Debtors still had the right to appeal the District Court Dismissal Order, the issue was not moot. The bankruptcy court issued findings of fact and conclusions of law orally on the record and entered a Civil Minute Order denying the Renewed Abandonment Motion on July 24, 2008 ("Abandonment Order"). In its findings of fact and conclusions of law, the bankruptcy court determined that: (1) because the Debtors' Claims were not listed on Debtors' bankruptcy schedules, they were not abandoned pursuant to § 554(c), and the Trustee still owned Debtors' Claims; and, (2) because Debtors' Claims had some value and benefit to the estate, the Trustee did not have to abandon them. Debtors timely filed an appeal.

II. JURISDICTION

The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334 and 157(b)(2). We do not have jurisdiction over appeals that are constitutionally moot. Drummond v. Urban (In re Urban), 375 B.R. 882, 887 (9th Cir. BAP 2007).[8] Nor do we have jurisdiction over bankruptcy court orders that are not final.

[8] There is no basis for an equitable mootness claim in this case. See e.g., Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC), 391 B.R. 25, 33-35 (9th Cir. BAP 2008).

Belli v. Temkin (In re Belli), 268 B.R. 851, 855 (9th Cir. BAP 2001).

A. Mootness.

Mootness is a jurisdictional issue we consider sua sponte. Felton Pilate v. Burrell (In re Burrell), 415 F.3d 994, 997 (9th Cir. 2005). An appeal is moot if events have occurred that prevent an appellate court from granting effective relief. Ederel Sport, Inc. v. Gotcha Int'l L.P. (In re Gotcha Int'l L.P.), 311 B.R. 250, 253-54 (9th Cir. BAP 2004).

On December 22, 2008, the Panel issued an order to the parties requesting further briefing to explain why this appeal is not moot. The order was issued based upon Debtors' indication, at the July 21, 2008 hearing before the bankruptcy court, and in their briefs before this Panel, that because the Trustee failed to take over the District Court Action, the statute of limitations had run on Debtors' Claims. It was also unclear from the record whether Debtors had timely appealed the District Court Dismissal Order.

The District Court Dismissal Order was entered on June 23, 2008. The Federal Rules of Civil Procedure require that every judgment be "set forth on a separate document" and must be entered in the docket. Fed. Rule Civ. P. 58(a). The district court entered its separate judgment on August 15, 2008.[9] Because

[9] See Helen and Martin Yack, et. al. v. Wash. Mut. Inc., et. al., Case No. C07-5858-PJH, District Court, Northern District of California, at docket number 58. We have taken judicial notice of documents filed in the District Court Action in order to determine whether Debtors timely appealed the District Court Dismissal Order. Ehrenberg v. Cal. State Univ. (In re Beachport Entm't), 396 F.3d 1083, 1088 (9th Cir. 2005).

the time for appeal runs from the date of entry of the judgment, Debtors' appeal, on September 15, 2008, of the judgment of dismissal was timely. Fed. R. App. P. 4(a).

The statute of limitations may be suspended until the final disposition of an appeal. COLTOFF, PAUL, ET. AL., 54 C.J.S. LIMITATIONS OF ACTIONS § 154 (2008). Debtors' counsel stated at oral argument that he believed the statutes of limitation on most of Debtors' Claims are suspended while Debtors' appeal is pending. In any event, the unfair business practices claim under Cal. Civ. Code § 17200 has a four year statute of limitations, and has not yet run.

The Trustee and WaMu assert this appeal is moot because the district court has held that even if Debtors' Claims were abandoned, Debtors are judicially estopped from prosecuting them because of their failure to list them on their bankruptcy schedules. However, if we reverse the bankruptcy court's Abandonment Order, and the Ninth Circuit reverses the District Court Dismissal Order, including the finding that judicial estoppel bars Debtors' prosecution of Debtors' Claims, then the Debtors could litigate at least their California unfair business practices claim. Even if this scenario requires a precise alignment of events, there is a possibility of providing effective relief to the Debtors. As a result, this appeal is not moot.

B. Finality.

An order authorizing abandonment is a final order. See e.g., Johnston v. Webster (In re Johnston), 49 F.3d 538, 540 (9th Cir. 1995); Malden Mills Indus., Inc. v. Maroun (In re Malden

Mills Indus.), 303 B.R. 688, 696 (1st Cir. BAP 2004). It is not clear, however, if an order denying abandonment, as in this case, is a final order since Debtors are not precluded from filing a motion to abandon in the future.

The standard for determining finality in bankruptcy cases is more flexible than in other contexts. Frontier Properties, Inc. v. Elliott (In re Frontier Properties, Inc.), 979 F.2d 1358, 1363 (9th Cir. 1992). Flexible finality focuses on whether the order being appealed affects substantive rights and finally determines a discrete issue. In re Belli, 268 B.R. at 854. A bankruptcy court order is final under the flexible standard if it "(1) resolves and seriously affects substantive rights and (2) finally determines a discrete issue to which it is addressed." In re Frontier Properties, 979 F.2d at 1363.

The factors to be considered in applying the flexible finality standard include: (1) the need to avoid piecemeal litigation; (2) judicial efficiency; (3) systemic interest in preserving the bankruptcy court's role as a fact finder; and (4) whether further delay would cause either party irreparable harm. Saxman v. Educ. Credit Mgmt. Corp. (In re Saxman), 325 F.3d 1168, 1171 (9th Cir. 2003) (quoting Knupfer v. Lindblade (In re Dyer), 322 F.3d 1178, 1187 (9th Cir. 2003)).

In this case, judicial efficiency could be promoted if the Panel were to reverse the Abandonment Order because the Debtors would regain their claims and the bankruptcy court would not needlessly engage in factual findings regarding a proposed sale by the Trustee or other disposition of the Debtors' Claims. On the other hand, if we affirm the bankruptcy court, there is a

high likelihood that there will be a second appeal of any order approving the Trustee's disposition of Debtors' Claims. However, finality is determined prior to a decision on the merits of an appeal. Therefore, because a decision in favor of the Debtors would promote judicial economy, the Abandonment Order may be considered a final order. In re Dyer, 322 F.3d at 1187; Bonner Mall P'ship v. U.S. Bankcorp Mtg. Co. (In re Bonner Mall P'ship), 2 F.3d 899, 904 (9th Cir. 1993).

Furthermore, if we defer considering the appeal of the Abandonment Order and the Trustee pursues a sale of Debtors' Claims to a good-faith purchaser, an appeal of the sale order may be rendered moot unless Debtors, who are elderly and on fixed incomes, obtain a stay pending appeal. See Onouli-Kona Land Co. v. Richards (In re Onouli-Kona Land Co.), 846 F.2d 1170, 1172-73 (9th Cir. 1988. This would then prevent any future review of the Abandonment Order as that review would be rendered moot. Irreparable harm could, therefore, result to the Appellants if the Abandonment Order is not reviewed now.

Accordingly, we find the Abandonment Order is final under the flexible finality standard and we have jurisdiction to review the merits of the appeal. 28 U.S.C. § 158.

III. ISSUE

Did the bankruptcy court abuse its discretion in denying Debtors' Renewed Abandonment Motion?

IV. STANDARDS OF REVIEW

We review abandonment orders for an abuse of discretion. Johnston v. Webster (In re Johnston), 49 F.3d 538, 540 (9th Cir. 1995). A bankruptcy court "abuses its discretion if its decision

is 'based on an erroneous conclusion of law or when the record contains no evidence on which the [bankruptcy court] rationally could have based that decision.'" Viet Vu v. Kendall (In re Viet Vu), 245 B.R. 644, 647 (9th Cir. BAP 2000) (quoting Vanderpark Properties, Inc. v. Buchbinder (In re Windmill Farms, Inc.), 841 F.2d 1467, 1472 (9th Cir. 1988)).

V. DISCUSSION

A party with an interest in the bankruptcy case can request a bankruptcy court to order the trustee to abandon property of the estate if they establish: (1) the property is either burdensome to the estate; or, (2) is of inconsequential value and benefit to the estate. See 11 U.S.C. § 554(b); In re Sullivan & Lodge, Inc., 2003 WL 22037724 at *4 (N.D. Cal. 2003); In re Viet Vu, 245 B.R. at 647. However, an order compelling abandonment is "the exception, not the rule." Id. (citing Morgan v. K.C. Mach. & Tool Co. (In re K.C. Mach. & Tool Co.), 816 F.2d 238, 245 (6th Cir. 1987)). "The only issue before the court in an application for abandonment is whether there is a reason that the estate's interest in the property should be preserved or, instead, whether the property is so worthless or burdensome to the estate that it should be removed therefrom." In re K.C. Mach. & Tool Co., 816 F.2d at 246.

Debtors contend that Debtors' Claims should be abandoned because they are mostly injunctive relief claims that have no value for the estate or putative class action claims that would be difficult or impossible for the Trustee to assert. Debtors also assert a right to the injunctive relief claims regardless of their failure to disclose those claims in their bankruptcy

schedules. Because of this latter assertion, our analysis begins by reviewing the bankruptcy court's determination that all of Debtors' Claims were property of the estate.

A. Property of the Estate.

Property of the bankruptcy estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). Causes of action existing at the time the bankruptcy petition is filed are property of the estate. Sierra Switchboard Co. v. Westinghouse Elec. Corp., 789 F.2d 705, 708 (9th Cir. 1986) (citations omitted); Suter v. Goedert (In re Suter); 396 B.R. 535, 541-42 (D. Nev. 2008).

The events giving rise to Debtors' Claims occurred eight months prior to the filing of the bankruptcy case. Debtors' Claims are not "so personal [to the Debtors] as to exclude [them] from the bankruptcy estate." Id. at 546.[10] Therefore, we agree with the bankruptcy court that Debtors' Claims are included in the bankruptcy estate. Henson v. Lucas (In re Henson), 2006 WL 3861370 at * 5 (Bankr. N.D. Cal. 2006) (if "debtor could raise a claim at the commencement of the bankruptcy case, the claim

[10] The District Court in In re Suter envisioned three reasons a cause of action may be so personal as to exclude it from the estate: (1) intimately personal claims serving as a catharsis for the debtor; (2) claims that would be unfair to keep from public scrutiny if they were sold; (3) personal injury claims where compensation is intended to make a plaintiff whole, not merely to pay off a debt. "Each of these reasons stems from righting a wrong done to a plaintiff herself." Id. In this case, because Debtors' Claims are a putative class action they are not so personal that they are excluded from the bankruptcy estate.

becomes the exclusive property of the bankruptcy estate.") (emphasis in original).

Debtors' Claims remained property of the estate even after the bankruptcy case was closed. When a debtor fails to correctly schedule an asset, including a cause of action, the asset remains the property of the bankruptcy trustee forever (or until administered or formally abandoned by the trustee). 11 U.S.C. § 544(d); Griffin v. Allstate Ins. Co., 920 F.Supp. 127, 130 (C.D. Cal. 1996) ("Lawsuits remain part of the bankruptcy estate unless the bankruptcy trustee abandons them."); Lopez v. Specialty Restaurants Corp. (In re Lopez), 283 B.R. 22, 31-32 (9th Cir. BAP 2002). We conclude that the bankruptcy court correctly determined Debtors' Claims were property of the bankruptcy estate.

B. Inconsequential Value and Benefit to the Estate.

Debtors argue Debtors' Claims have no value to the estate primarily for two reasons. First, Debtors contend that because the improperly frozen funds in Debtors' bank account were eventually returned to Debtors, any monetary claims are of minimal value. Debtors maintain that Debtors' Claims are primarily putative class claims for injunctive or declaratory relief which cannot provide value to the estate.

In support of this notion, Debtors cite to cases in which courts declined to judicially estop a debtor, who did not disclose injunctive relief claims in a bankruptcy case, from later pursuing those claims because the injunctive relief claims did not add value to the estate. See e.g., Burnes v. Pemco

Aeroplex, Inc., 291 F.3d 1282 (11th Cir. 2002); Barger v. City of Cartersville, 348 F.3d 1289 (11th Cir. 2003). Debtors' cases are not persuasive in the context of this case. In considering a motion to abandon property, the analysis is solely directed to a determination of whether the claims have any potential value for the benefit of the estate's creditors, not, as in the cited cases, to presume a claim's lack of value as a factor in the debtor's favor in applying principles of judicial estoppel.

Second, Debtors contend that the Trustee lacks standing to either maintain or settle Debtors' Claims (in particular the injunctive relief and class action claims), making them worthless.[11] Debtors' argument assumes that settlement is the only method of disposition of Debtors' Claims. However, the

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[11] Debtors undercut their argument regarding standing by the contradictory assertion, at the hearing on July 21, 2008, and before the Panel at oral argument, that if the Trustee had only substituted himself for the Debtors in the District Court Action, there would not be a statute of limitations issue. The following exchange is an example:

> MR. GROBMAN: . . . The Trustee only had to protect this litigation asset both individually and on behalf of the class, only had to substitute itself, for the Yacks to protect what is supposedly this valuable asset and in accordance with this fiduciary responsibility.
>
> THE COURT: Isn't the Trustee just a real party in interest as a matter of law without having to be substituted?
>
> * * *
>
> THE COURT: The Trustee is a real party of interest, does the Trustee–
>
> MR. GROBMAN: Right.

Hr'g Tr. 33:10-17; 34:4-6 (July 21, 2008).

Trustee can also sell or compromise causes of action. 11 U.S.C. § 363. A compromise of a cause of action that is property of the estate is the "equivalent of a sale of the intangible property represented by the [cause of action]." Goodwin v. Mickey Thompson Entm't Grp., Inc. (In re Mickey Thompson Entm't Grp., Inc.), 292 B.R. 415, 421 (9th Cir. BAP 2003). A "settlement" that is a purchase by a party of a cause of action of the estate is more accurately either a compromise or a sale. Id.

Debtors mistake the negotiations between the Trustee and WaMu as finalizing a full settlement of Debtors' Claims that would provide a mutual release of claims between WaMu and the entire putative class. They are piqued by what they consider to be WaMu's "attempt to pay a premium" to the Trustee to keep the class action claims from going forward.[12]

Even assuming, arguendo, this were the case, the bankruptcy trustee has the duty and authority to take actions that "maximize the value of the estate." 11 U.S.C. § 704; Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343, 352, 105 S.Ct. 1986, 1993 (1985); In re Moore, 110 B.R. 924, 927 (Bankr. C.D. Cal. 1990); Schnelling v. Thomas (In re AgriBioTech, Inc.), 319 B.R. 207, 211 (D. Nev. 2004) (trustee is required to "marshall all of the estate's property for the estate's benefit"). Indeed, the bankruptcy trustee must "collect and reduce to money the property of the estate." 11 U.S.C. § 704(a)(1) (emphasis added).

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[12] The Trustee stated at oral argument that he is not attempting to settle any third party claims because such claims are not property of the estate. Only the disposition of Debtors' personal claims and monetary claims are being negotiated with WaMu.

To that end, the bankruptcy trustee has the "authority to act for the benefit of the estate and may sell a cause of action, prosecute it in nonbankruptcy court, settle it, or abandon it to the debtor as of inconsequential value to the estate." In re Lopez, 283 B.R. at 32-33. The bankruptcy trustee must determine, in his sound business judgment, what disposition is in the best interests of the estate. In re Moore, 110 B.R. at 927.

The trustee's authority is discretionary. Id. at 928. However, "if consideration is offered for a cause of action, then the cases are clear that the trustee must take affirmative action to resolve the matter." Id.; see also, In re McCarron, 1994 WL 553050, *3 (Bankr. D. Idaho 1994) (abandonment of causes of action was not proper when defendant was offering to buy them); In re Sullivan & Lodge, Inc., 2003 WL 22037724, *5 (N.D. Cal. 2003) (causes of action were not "entirely without value" because there was an offer to purchase them; trustee required to "explore the potential upside of a sale").

Here, both the Trustee and the bankruptcy court determined there was some potential value to the estate from Debtors' Claims:

> THE COURT: There is property that is of value and benefit to the estate, how much, I don't know what it is.
> * * * *
> There is unquestionably a monetary claim. The Trustee unquestionably owns that. The debtors have-it is alleged, have an individual right to a taking of the injunction. The Trustee has an interest in that if that right to obtain an injunction has value. Whether it does or not, may be a complex question.

(July 21, 2008 Hr'g Tr. at 42, ¶11-17).

Because Debtors' Claims have potential value for the benefit of the estate, abandonment of Debtors' Claims would only be proper if they were too burdensome to realize that value.

C. Burdensome to the estate.

Debtors argue Debtors' Claims are overly burdensome to the estate because if the Trustee attempts to settle Debtors' Claims, he will be "embroiled in lengthy and expensive proceedings" dealing with class action procedure. Debtors contend the Trustee would be required to provide notice to prospective class members of any proposed settlement of Debtors' Claims, and that such settlement could not be approved because it would give a disproportionate recovery to Debtors to the detriment of the prospective class members.[13] See e.g., In re Ball, 201 B.R. 204 (Bankr. N.D. Ill. 1996); Young v. Higbee Co., 324 U.S. 204, 65 S.Ct. 594 (1945); Diaz v. Trust Territory of Pac. Islands, 876 F.2d 1401 (9th Cir. 1989).

As discussed above, the Trustee has authority to dispose of Debtors' Claims. The cases cited by Debtors, Ball, Higbee, and Diaz, have no relevance to whether the Trustee should be compelled to abandon Debtors' Claims. Any issues regarding settlement of Debtors' Claims, including the putative class action (if it were to be revived by a reversal of the District

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[13] Debtors argue the "bankruptcy courts will then be required to engage in complex procedures under Rule 23(e) of the Federal Rules of Civil Procedure–a rule with no bankruptcy law counterpart–to determine if the Trustee has settled for a disproportionate recovery compared to the actual value of the individual claim, and whether prospective class members will be prejudiced by the individual settlement." (Appellant's Opening Brief at 29).

Court Dismissal Order), are matters to be resolved (if at all) at the time the Trustee disposes of Debtors' Claims.[14] Any "fundamental conflicts of interest" that Debtors allege would prohibit the Trustee from settling Debtors' Claims are not yet a ripe issue for our review.

Debtors did not establish that Debtors' Claims were overly burdensome or lacked value or benefit to the estate. The bankruptcy court correctly determined that the Trustee should not be compelled to abandon Debtors' Claims when they had potential collective value.

VI. CONCLUSION

Because we find that the bankruptcy court did not abuse its discretion in determining that Debtors' Claims had value and benefit to the estate without being overly burdensome to the Trustee, we **AFFIRM** the bankruptcy court's order denying Debtors' Renewed Abandonment Motion.

[14] Notably, the District Court Action was not certified as a class action prior to the District Court Dismissal Order.