

JUL 23 2008

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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

6	In re:)	BAP Nos.	CC-08-1047-MkSnPa
)		CC-08-1054-MkSnPa
7	DR. MUNIR UWAYDAH,)		(Consolidated)
)		
8	Debtor.)	Bk. No.	03-11086
)		
9	_____)	Adv. No.	03-01510
)		
10	DR. MUNIR UWAYDAH,)		
)		
11	Appellant,)		
)		
12	v.)	MEMORANDUM¹	
)		
13	GENERAL ELECTRIC MEDICAL)		
	SYSTEMS EUROPE, INC.,)		
14)		
	Appellee.)		
)		

Argued and Submitted on June 19, 2008
at Pasadena, California

Filed - July 23, 2008

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

Honorable Thomas B. Donovan, Bankruptcy Judge, Presiding

Before: MARKELL, SNYDER² and PAPPAS, Bankruptcy Judges.

¹This 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.

²Hon. Paul B. Snyder, U.S. Bankruptcy Judge for the Western District of Washington, sitting by designation.

1 SUMMARY

2 Stripped of its voluminous record and many claims and
3 counterclaims, this controversy results from the fraudulent
4 purchase in 2001 of a \$1 million radiology scanner by the
5 debtor/appellant, Dr. Munir M. Uwaydah ("Uwaydah"). Uwaydah
6 never paid for the device, and federal courts in Ohio have held
7 that at the time he ordered it, he did not intend to pay for it.
8 This was fraud. But Uwaydah, who denies that he committed fraud,
9 has spent several years attempting to have the debt for the
10 scanner discharged in bankruptcy.

11 In this appeal, Uwaydah argues that the Ohio court findings
12 should not have preclusive effect in bankruptcy court in
13 California. His reasons include his assertion that the summary
14 judgment that the Ohio federal court entered against him was the
15 result of sanctions that the court had previously imposed on him.
16 In this view, giving the summary judgment preclusive effect would
17 deny him due process.

18 This panel finds Uwaydah's arguments without merit and
19 AFFIRMS the judgment of the bankruptcy court.

20 FACTS

21 In the summer of 2001, Uwaydah ordered a CT radiology
22 scanner, which cost \$1,070,000, from the creditor/appellee,
23 General Electric Medical Systems Europe, Inc. ("GEMS"). The
24 purchase was made through his alter ego,³ Prometheus Health

25
26 ³ The alter-ego status was confirmed by the district court
27 in Ohio and upheld on appeal by the Sixth Circuit. One of GEMS's
28 allegations in the Ohio litigation was that Uwaydah and
Prometheus were alter egos and that Uwaydah "exercised complete
(continued...)

1 Imaging Systems, Inc. ("Prometheus"). Uwaydah asked for the
2 scanner to be delivered to a new radiology clinic operated by a
3 business partner, Al-Banadar International Group ("ABIG") in
4 Saudi Arabia, and he repeatedly assured GEMS that he would pay
5 for it.

6 The payment terms spelled out in the purchase agreement were
7 as follows: 10% of the price by September 27, 2001, an additional
8 50% when the scanner was shipped, an additional 30% when it was
9 delivered, and the final 10% when the scanner was installed and
10 accepted.⁴

11 In support of this purchase and these terms, Prometheus
12 presented to GEMS a letter of credit for "at least \$1,000,000"
13 issued by a bank in Saudi Arabia. ABIG, the business partner,
14 was the applicant for the letter of credit, and Prometheus was
15 the beneficiary. Uwaydah told GEMS that the money from the
16 letter of credit would be used to pay for the scanner.

17 Prometheus paid GEMS the first 10% installment (\$107,000) as
18 required on September 27, 2001. That was the last payment that
19 GEMS received from Prometheus or Uwaydah, both of whom repeatedly
20 assured GEMS that the remaining \$963,000 would be paid.

22 ³(...continued)
23 and total control over" Prometheus. GEMS also claimed that
24 Prometheus "was simply a shell corporation which was never
25 adequately capitalized." When the district court entered summary
26 judgment in favor of GEMS, it specifically granted the alter ego
27 claims.

26 ⁴ The terms were later amended because of delays in shipping
27 the scanner overseas, caused in part by the terrorist attacks of
28 September 11, 2001. Under the revised terms, Uwaydah was to make
full payment on delivery, which he did not do.

1 However, the record from the Ohio litigation shows that at
2 the same time that Uwaydah was telling GEMS that he had not yet
3 received the money from the letter of credit, the money had
4 already been released to Prometheus, and Uwaydah was transferring
5 most of it to a bank account in Lebanon and \$50,000 to his
6 personal bank account.

7 On September 19, 2002, GEMS sued Uwaydah and Prometheus for
8 the unpaid debt in the federal district court for the Northern
9 District of Ohio ("the Ohio court"). (GEMS is a foreign company,
10 based in Paris, so there was diversity jurisdiction.)

11 Four months later, on January 14, 2003, Uwaydah filed
12 chapter 7 bankruptcy⁵ in Los Angeles. He did not inform the Ohio
13 court of his bankruptcy filing until May 16, 2003, four months
14 after he had filed.

15 Meanwhile, on January 22, 2003, the Ohio court conducted a
16 case management conference, at which the defendants' lawyer was
17 unable to tell the court what had happened to the money released
18 to Prometheus from the letter of credit. As a result, the
19 court's case management plan directed that disclosures under Fed.
20 R. Civ. P. 26 be filed by January 29, 2003, and ordered that they
21 "include disclosure of documents showing transfer and/or location
22 of money released under the letter of credit and disclose the
23 names of all individuals with any knowledge of same."

24
25 ⁵ Unless otherwise indicated, all "Code," chapter and
26 section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-
27 1330, before it was amended by the Bankruptcy Abuse Prevention
28 and Consumer Protection Act of 2005 ("BAPCPA"), Pub. L. 109-8,
119 Stat. 23, as the case from which this appeal arises was filed
before October 17, 2005, the effective date of most BAPCPA
provisions.

1 A status conference was held on May 15, 2003, but neither
2 Uwaydah nor Prometheus appeared. The court entered an order to
3 show cause why judgment should not be entered against them.

4 Another case management conference was held on October 24,
5 2003, at which the court reaffirmed its prior order and warned
6 that "any continued failure to comply with the Court's orders may
7 result in sanctions, up to and including judgment against
8 defendants in this case."⁶

9 On May 2, 2005, after more than two years of Uwaydah's
10 failure to comply with discovery orders, and twenty months after
11 it had specifically warned him, the Ohio court entered sanctions
12 against Uwaydah, including an order that "Dr. Uwaydah is
13 prohibited from introducing any testimony contrary to the facts
14 set forth by GEMS." (Emphasis in original.) Gen. Elec. Med. Sys.
15 Eur. v. Prometheus et al., ER App. 4, Tab 20 at 2271.

16 The sanctions order is worth quoting at length:

17 Dr. Uwaydah repeatedly abused the discovery
18 process and completely opposed the cooperative spirit
19 intended by the Rules. He has repeatedly failed to
20 adequately respond to GEMS' requests and this Court's
21 orders, which, in itself, warrants sanctions. Most
22 recently, Dr. Uwaydah has continued his delay tactics
23 by avoiding his properly noticed deposition; and,
24 thereafter, he failed to make a good faith effort to
25 reschedule the deposition or otherwise make himself
available. Dr. Uwaydah's counsel's arguments in
response to GEMS' motion, especially in light of this
case's history, and this Court's repeated willingness
to allow counsel an opportunity to convince his client
to cooperate, are unavailing. This Court has patiently
accommodated Dr. Uwaydah's interchangeable excuses for
his complete lack of cooperation. Dr. Uwaydah has shown

26 ⁶ Uwaydah's bankruptcy filing, of course, imposed an
27 automatic stay on all further proceedings. But on July 17, 2003,
28 the parties agreed to lift the automatic stay so that the Ohio
litigation could go forward.

1 this Court his lack of respect for the judicial process
2 and has demonstrated he will not remedy his actions in
the future.

3 Id. at 2276-77 (emphasis in original).

4 On August 5, 2005, three months after sanctioning Uwaydah,
5 the Ohio court entered summary judgment against him personally
6 for fraud and conversion. Docket no. 91. The Sixth Circuit
7 affirmed on November 22, 2006, and the United States Supreme
8 Court declined to review the case. Gen. Elec. Med. Sys. Eur. v.
9 Prometheus Health Imaging et al. ("GEMS v. Prometheus"), 205 Fed.
10 Appx. 418 (6th Cir. 2006), cert. denied, 127 S.Ct. 2951 (2007).
11 This was a final judgment.

12 In short, the federal courts in Ohio found and affirmed that
13 at the time that Uwaydah bought the CT Scanner, promised to pay
14 \$1,070,000 for it, and ordered it shipped to Saudi Arabia, he had
15 no present intention of paying for it. He had therefore
16 committed fraud.

17 The Sixth Circuit reviewed the record and agreed with GEMS's
18 account of what had occurred: "GEMS cites the fact that Uwaydah
19 made repeated assurances that Prometheus would pay for the
20 scanner if GEMS shipped it to Saudi Arabia, but then immediately
21 diverted all funds away from Prometheus right after the funds
22 posted to the account, thus rendering Prometheus insolvent." GEMS
23 v. Prometheus, 205 Fed. Appx. at 420.

24 The Sixth Circuit dismissed Uwaydah's argument that he did
25 not have to pay for the scanner because GEMS had breached the
26 contract, and he was therefore free to use the money from the
27 letter of credit for other purposes. The court found that the
28 breach of contract that Uwaydah complained of was not material,

1 and, further, that his assertions of breach of contract were
2 "belied by the facts." Id. at 421. The court concluded, "[A]
3 valid inference can be drawn that Uwaydah had no intention of
4 paying for the scanner at any point." Id.

5 GEMS, the creditor, then sought to apply the Ohio fraud
6 determination to Uwaydah's bankruptcy in the Central District of
7 California and to have Uwaydah's debt declared nondischargeable
8 under § 523 (a) (2) (A).

9 On February 7, 2008, the bankruptcy court held that the Ohio
10 court's finding of fraud had preclusive effect in Uwaydah's
11 bankruptcy case. It upheld all of GEMS's claims and denied
12 Uwaydah's motion for summary judgment. As a result, Uwaydah's
13 debt to GEMS was fraudulent and therefore nondischargeable.

14 Uwaydah timely filed a notice of appeal on February 14,
15 2008.

16 ISSUE

17 Do findings made in a summary judgment following a sanctions
18 order for discovery violations have preclusive effect in
19 bankruptcy?⁷

21 ⁷ The Sixth Circuit's affirmance was based on the record
22 before the district court prior to the imposition of sanctions.
23 In a puzzling footnote in its opinion, the appellate court said,
24 "While normally we would address the sanctions question first,
25 because our decision rests on the summary judgment record before
26 the district court which was submitted prior to imposition of the
27 sanctions, the sanctions question is moot." GEMS v. Prometheus,
28 205 Fed. Appx. at 420.

As a result, none of the debtor's due process contentions
appear to have any merit, as the Sixth Circuit seemed to have
ruled on the basis of the record that existed before Uwaydah was
barred from presenting a defense. But the parties have not

(continued...)

1 STANDARD OF REVIEW

2 The bankruptcy court's findings of fact are subject to a
3 clearly erroneous standard of review. Fed. R. Bank. P. 8013.
4 Its conclusions of law are reviewed de novo. Mendez v. Salven (In
5 re Mendez), 367 B.R. 109, 113 (9th Cir. BAP 2007).

6 DISCUSSION

7 The central question here is whether court-ordered sanctions
8 for Uwaydah's repeated failures to comply with discovery orders
9 in the fraud case, along with summary judgment against him, have
10 preclusive effect in his bankruptcy case.

11 The Ohio court entered summary judgment against Uwaydah
12 after it had sanctioned him for his repeated failure to comply
13 with discovery orders. In particular, the court barred Uwaydah
14 from introducing evidence or testimony contrary to the facts
15 stated by GEMS, which effectively prevented him from presenting a
16 defense.

17 In its opinion affirming the district court, the Sixth
18 Circuit recited the elements of fraud in Ohio as follows:

19 (a) a representation . . . (b) which is material to the
20 transaction at hand, (c) made falsely, with knowledge
21 of its falsity, or with such utter disregard and
22 recklessness as to whether it is true or false that
23 knowledge may be inferred, (d) with the intent of
24 misleading another into relying upon it, (e)
25 justifiable reliance upon the representation or
26 concealment, and (f) a resulting injury proximately
27 caused by the reliance.

26 ⁷(...continued)
27 chosen to argue this point. Because there is no difference in
28 outcome, our disposition deals with the issues as framed by the
parties, although a much shorter memorandum would result if the
Sixth Circuit's perspective is correct.

1 GEMS v. Prometheus, 205 Fed. Appx. at 420 (quotation and
2 citations omitted).

3 The Sixth Circuit then found that Uwaydah's conduct had met
4 all of the elements of fraud. Id. at 421. This panel confirms
5 the bankruptcy court's conclusion that the fraud finding under
6 Ohio law satisfies the requirements of nondischargeability under
7 § 523(a)(2).

8 Because the sanctions order essentially led to the summary
9 judgment, we will consider the summary judgment as if it had been
10 a default judgment. This raises the question of issue
11 preclusion.

12 The principles of collateral estoppel, or issue preclusion,
13 apply in discharge proceedings in bankruptcy court. See Grogan
14 v. Garner, 498 U.S. 279, 284-85 n.11 (1991); In re McNallen, 62
15 F.3d 619, 624 (4th Cir. 1995).

16 Because the prior judgment was rendered by a federal court,
17 federal principles of collateral estoppel apply. See Heiser v.
18 Woodruff, 327 U.S. 726, 732 (1945); see also Grogan v. Garner,
19 498 U.S. at 284 (citing Restatement (Second) Judgments § 27
20 (1982) as establishing elements of federal collateral estoppel).
21 For a party to be estopped from relitigating an issue, the
22 following elements must be present: (1) the issue sought to be
23 precluded must be the same as the one involved in the prior
24 action; (2) the issue must have been actually litigated; (3) the
25 issue must have been determined by a valid and final judgment;
26 and (4) the determination must have been essential to the prior
27 judgment. In re Ross, 602 F.2d 604, 608 (3d Cir. 1979); accord
28 Restatement (Second) Judgments § 27 (1982); see also Pena v.

1 Gardner, 976 F.2d 469, 472 (9th Cir. 1992).

2 Uwaydah claims, among other things, that because of the
3 discovery sanctions, the Ohio court's summary judgment did not
4 meet the "actually litigated" requirement for estoppel or
5 preclusive effect. In this view, to deny Uwaydah his day in
6 court is to deny him due process.

7 Most default judgments occur under different circumstances
8 than are present in this case. A party has simply failed to
9 appear, or the venue is inconvenient, or there is another
10 acceptable explanation. In those cases, the default judgment
11 generally does not meet the "actually litigated" requirement.
12 See Arizona v. California, 560 U.S. 392, 414 (2000) (citing
13 Restatement (Second) of Judgments § 27 (1982) (stating in
14 illustration (e): "[i]n the case of a judgment entered by
15 confession, consent, or default, none of the issues is actually
16 litigated. Therefore the rule of this Section does not apply to
17 any issue in a subsequent action.")); In re Daley, 776 F.2d 834,
18 837-39 (9th Cir. 1985); see also 18A CHARLES ALAN WRIGHT, ARTHUR R.
19 MILLER, EDWARD H. COOPER, FEDERAL PRACTICE & PROCEDURE: JURISDICTION. § 4442
20 (2d ed. 2007); 18 Moore's Federal Practice § 132.03[2][k][i] (3d
21 ed. 2007).

22 But the default judgment in this case results from sanctions
23 that were ordered for overt and knowing behavior by the defendant
24 over an extended period of time. From 2003 to 2005, Uwaydah
25 ignored, delayed, and otherwise attempted to thwart the Ohio
26 court's discovery orders. In May 2005, after repeated warnings
27 about Uwaydah's failure to comply, the Ohio court entered the
28 sanctions order, and three months after that, it issued the

1 summary judgment in favor of GEMS. Those two orders taken
2 together are the linchpin of this case.

3 Before the discovery sanctions and summary judgment were
4 entered against Uwaydah in the fraud case in Ohio, he had
5 extensive notice and an opportunity to reply. In fact, the Ohio
6 court noted, in response to one discovery request by GEMS,
7 Uwaydah had produced some documents, but they were insufficient.
8 At another point, Prometheus gave some documents to GEMS, but
9 they only partially complied with the discover order. In other
10 words, Uwaydah knew about the orders, and he participated to some
11 extent in the discovery process. Though his original counsel
12 withdrew during the controversy, a lawyer from that office
13 appeared at a later hearing in the case and told the court that
14 Uwaydah had been kept informed of what was going on.

15 As noted, the Ohio court gave Uwaydah every opportunity to
16 comply with its orders or to contest them and make his case, and
17 the court specifically warned him that he risked sanctions
18 including a judgment against him if he continued to fail to
19 comply with the discovery orders. He still did not comply.

20 Uwaydah had his day in court. To be sure, he did not show
21 up, but holding that the judgments made by the Ohio federal
22 courts do not have preclusive effect in bankruptcy court would
23 allow Uwaydah and others similarly situated to profit from
24 flouting discovery orders. If the fraud finding by the Ohio
25 court is not preclusive in his bankruptcy case, Uwaydah would be
26 in a better position than if he had litigated to adjudication and
27 lost.

28

1 The Ninth Circuit dealt with a similar set of facts in FDIC
2 v. Daily (In re Daily), 47 F.3d 365 (9th Cir. 1995). In that
3 case, a default judgment had been entered following the
4 defendant's failure to provide discovery in a fraud case. The
5 creditor then sought to have the determination applied to the
6 debtor's bankruptcy case, preventing him from denying the fraud
7 in bankruptcy court. As in the current case, the debtor objected
8 that the fraud issue had not been "actually litigated."

9 The Ninth Circuit held that Daily was not an "ordinary
10 default judgment" and that when a party has participated in the
11 process but consistently tried to thwart discovery, the
12 requirements of "actually litigated" had been met. The court
13 said:

14 A party who deliberately precludes resolution of
15 factual issues through normal adjudicative procedures
16 may be bound, in subsequent, related proceedings
17 involving the same parties and issues, by a prior
18 judicial determination reached without completion of
19 the usual process of adjudication. In such a case the
"actual litigation" requirement may be satisfied by
substantial participation in an adversary contest in
which the party is afforded a reasonable opportunity to
defend himself on the merits but chooses not to do so.

20 Id. at 368 (footnote omitted).

21 That description applies to the current appeal. As a result,
22 the Ohio court's finding of fraud has preclusive effect in the
23 California bankruptcy case.

24 In short, the sanctions in this case were imposed on Uwaydah
25 only after he had spent more than two years delaying,
26 obfuscating, and attempting to frustrate the adjudication of the
27 case, which the Ohio court spelled out in detail. The
28 requirements of due process were met.

1 The Daily court further held:

2 Due process is not violated by a court's entry of
3 a default judgment or other sanction against a party
4 for refusal to cooperate with discovery. The court's
5 action presumes, in essence, that defendant's conduct
6 is but an admission of the want of merit in the
7 asserted defense. Nor is due process violated if the
8 defendant is later held to the consequences of such a
9 judgment in a bankruptcy discharge proceeding. It is
10 implicit in the doctrine of collateral estoppel that,
11 where a party has been accorded a full and fair
12 opportunity to litigate an issue in a prior proceeding,
13 due process is not violated by denying the party a
14 further opportunity to litigate the same issue in a
15 subsequent proceeding.

16 Id. at 369 (internal quotations and citations omitted).

17 Daily is consistent with the Restatement (Second) of
18 Judgments, which explains, "[E]ven if [an issue] was not
19 litigated, the party's reasons for not litigating in the prior
20 action may be such that preclusion would be appropriate."
21 Restatement (Second) of Judgments § 27 cmt. e (1982).

22 Other circuits have reached the same conclusion. For
23 example, in a similar bankruptcy case in Florida, where a debtor
24 refused to comply with discovery orders and then had a default
25 judgment of fraud entered against him, the fraud finding had
26 preclusive effect in bankruptcy court, and the debt was deemed
27 nondischargeable. The Eleventh Circuit upheld the bankruptcy
28 court and said, "Where a party has substantially participated in
an action in which he had a full and fair opportunity to defend
on the merits, but subsequently chooses not to do so, and even
attempts to frustrate the effort to bring the action to
judgment," collateral estoppel is proper. Bush v. Balfour Beatty
Bahamas, Ltd. (In re Bush), 62 F.3d 1319, 1325 (11th Cir.1995).

1 In another similar case involving a default judgment of
2 fraud as sanctions for discovery violations, the Third Circuit
3 held that the default judgment had preclusive effect in
4 bankruptcy and that the debtor's fraudulent debt was
5 nondischargeable. Wolstein v. Docteroff (In re Docteroff), 133
6 F.3d 210 (3d Cir.1997). The court said:

7 This is not a typical default judgment where a
8 defendant neglects or elects not to participate in any
9 manner because of the inconvenience of the forum
10 selected by the plaintiffs, the expense associated with
11 defending the lawsuit, or some other reason. To the
12 contrary, for several months, Docteroff participated
13 extensively in the lawsuit. He filed an answer, noticed
14 Wolstein's deposition, engaged several lawyers,
15 including local counsel, filed papers with the court,
16 and corresponded with opposing counsel. Apparently,
17 Docteroff realized the meritlessness of his position
18 and decided to frustrate orderly litigation by
19 willfully obstructing discovery.

20 We do not hesitate in holding that a party such as
21 Docteroff, who deliberately prevents resolution of a
22 lawsuit, should be deemed to have actually litigated an
23 issue for purposes of collateral estoppel application .
24 . . . [U]nder these circumstances, the actual
25 litigation requirement is met. To hold otherwise would
26 encourage behavior similar to Docteroff's and give
27 litigants who abuse the processes and dignity of the
28 court an undeserved second bite at the apple. We reject
such a result.

29 Id. at 215 (citations omitted).

30 In his current appeal, Uwaydah claims that his fraud was not
31 his promises to pay GEMS for the scanner but rather "a statement
32 respecting the debtor's or an insider's financial condition,"
33 which is exempt from nondischargeability under § 523(a)(2)(A).
34 In support of this assertion, he says that his fraud dealt only
35 with what he represented about the letter of credit and
36 Prometheus's financial circumstances. As he argued in his opening
37 brief in this appeal:

38 Debtor's fraud as determined by the Fraud Judgment
was . . . his misrepresentation that PHI's

1 [Prometheus's] financial condition was such that a
2 specific amount of funds (\$1M) to be obtained from a
3 specific source (. . . under the LOC) would be set aside
4 by PHI and earmarked such that upon delivery of the
Scanner, GEMS would be legally entitled to those
specific funds.

5 Appellant's opening brief at 12.

6 But this claim is false. The Ohio federal courts made clear
7 that the fraud consisted of Uwaydah's promise to pay for the
8 scanner when he had no intention of doing so. The fraud had
9 nothing to do with any statements about Uwaydah's or Prometheus's
10 financial condition.

11 Uwaydah also argues in his opening brief that "the fraud
12 judgment was not entitled to preclusive effect because it was
13 rooted in determinations that violated the automatic stay."

14 This argument also has no merit. The automatic stay was
15 lifted by stipulation of the parties in July, 2003, well before
16 the district court's sanctions order (February, 2005) and its
17 summary judgment (May, 2005). The sanctions order covered
18 Uwaydah's conduct after the stay was lifted. If there was any
19 sanctionable conduct before July, 2003, Uwaydah could have cured
20 it.

21 Uwaydah further argues that the bankruptcy court erred by
22 not permitting him to conduct "meaningful discovery" in GEMS's
23 adversary proceeding against him. But the adversary proceeding
24 in bankruptcy court was identical to the litigation in Ohio, in
25 which the record was complete and closed and a final and
26 conclusive judgment had been entered. No further discovery would
27 have changed that.

1 Uwaydah's argument that the bankruptcy court erred in
2 granting GEMS's motion to strike his answer, affirmative
3 defenses, and counterclaims also fails. Uwaydah filed his answer
4 and counterclaims on December 5, 2007, more than four years after
5 the court had set a deadline of June 20, 2003, for such a filing.
6 His response was not timely, Uwaydah did not seek leave to file
7 after the deadline, and he offered no explanation or excuse.
8 Moreover, he offered no legitimate counterclaims.

9 CONCLUSION

10 Collateral estoppel, or issue preclusion, prohibits the
11 relitigation of issues that have been adjudicated in a prior
12 lawsuit.

13 Two federal courts in Ohio found that Uwaydah had committed
14 fraud when he ordered the scanner from GEMS and promised to pay
15 for it, and the bankruptcy court in the Central District of
16 California properly found that the findings had preclusive effect
17 in Uwaydah's bankruptcy.

18 Because of the fraud, Uwaydah's debt to GEMS of \$963,000
19 (plus interest) was nondischargeable. His arguments have no
20 merit, the bankruptcy court's decision to apply issue preclusion
21 was correct, and we AFFIRM.

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