FILED

MAR 27 2007

HAROLD S. MARENUS, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY APPELLATE PANEL**

**OF THE NINTH CIRCUIT**

| | |
|---|---|
| In re:<br><br>MILTON LEE VANDEVORT,<br><br>Debtor. | BAP Nos. CC-06-1228-PaMaB<br>CC-06-1249-PaMaB<br>(consolidated)<br><br>Bk. No. LA 05-23588-EC |
| MILTON LEE VANDEVORT,<br><br>Appellant,<br><br>v.<br><br>CREDITOR'S ADJUSTMENT BUREAU, INC.,<br><br>Appellee. | **M E M O R A N D U M**[1] |

Argued and Submitted on February 22, 2007
at Pasadena, California

Filed - March 27, 2007

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

Honorable Ellen Carroll, Bankruptcy Judge, Presiding.

---

Before: PAPPAS, MARLAR[2] and BRANDT, Bankruptcy Judges

---

[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.

[2] Hon. James M. Marlar, United States Bankruptcy Judge for the District of Arizona, sitting by designation.

This is an appeal of two orders of the bankruptcy court: one denying chapter 7 debtor Milton Lee Vandevort's motion to continue a hearing on Vandevort's objection to Creditor's Adjustment Bureau ("CAB")'s proof of claim; and the other, an order denying Vandevort's objection to CAB's claim. We AFFIRM.

**FACTS**

This appeal, and the underlying litigation, stem from confusion over the correct name of a corporation.

On August 15, 1994, Vandevort, doing business as Engineering Consultants International ("ECI"), filed an action to recover money damages against "Robert E. McKee, a California corporation, et al." in the Los Angeles Superior Court (the "Superior Court Action").[3] Robert E. McKee, a Nevada corporation,[4] answered the complaint on March 17, 1995. Throughout the Superior Court Action, all pleadings filed by the defendant identified the company as a Nevada corporation, and never as a California corporation. However, there is no indication in the record that Vandevort ever corrected the caption of the Superior Court Action

---

[3] As was apparently his business practice, Vandevort, d/b/a ECI, obtained a limited assignment of the rights to collect sums due under a construction subcontract from a company called Transpac Fiber Optics. Transpac had subcontracted with McKee to perform the electrical work in a building in Glendale, California. Although we do not have the full text of the complaint filed in the Superior Court Action, we assume that Vandevort asserted a claim for damages against McKee for breach of contract.

[4] Where it does not compound the confusion, we will shorten the various names used to refer to the McKee corporate entity as follows: Robert E. McKee, a California corporation ("McKee California"); Robert E. McKee, a Nevada corporation ("McKee Nevada"); Robert E. McKee, Inc. (where there is no state designation)("McKee, Inc.").

to reflect that McKee was a Nevada corporation. As a result, all copies of documents in the record relating to the Superior Court Action bear the "Robert E. McKee, Inc., a California corporation" caption on the first page.

Trial in the Superior Court Action occurred in July and August, 2001.[5] Vandevort lost, and on February 6, 2002, a judgment was entered by the state court in favor of "Robert E. McKee, Inc." and against Vandevort, d/b/a ECI, for $36,287.45 in costs, and $693,905.70 in attorney's fees, incurred in defending the action (the "Judgment"). Vandevort appealed the Judgment and lost again.

In a document dated May 13, 2004, using the name "Robert E. McKee, Inc." with no state of incorporation designated, the McKee entity assigned the Judgment to CAB. In a document executed by CAB's counsel, dated April 21, 2004, CAB acknowledged the assignment of the Judgment to CAB from "Robert E. McKee, Inc., a California corporation." Both the assignment and the acknowledgment of assignment were filed with the Superior Court on June 25, 2004. However, on July 20, 2005, CAB filed a Clarification of Assignment and Acceptance with the Superior Court, in which it informed the court that it had erroneously stated that McKee was a California corporation, and identified the true assignor of the Judgment as "Robert E. McKee, a Nevada corporation."

---

[5] The copy of the Judgment in the Superior Court Action in our record indicates that trial concluded on August 7, 2002. We assume this is a clerical error and that the correct date was August 7, 2001, because Judgment was entered in the action on February 6, 2002.

Vandevort filed a petition for relief under chapter 7 of the Bankruptcy Code[6] on January 15, 2005, in the District of Wyoming. In his Schedule F, Vandevort listed a judgment claim by "Robert E. McKee" (with no indication of corporate status or state of incorporation) for $912,648.00. The bankruptcy case was transferred to the Central District of California on June 15, 2005.

CAB filed its proof of claim in the bankruptcy court on or about March 23, 2006, asserting an unsecured, nonpriority claim against Vandevort which, with post-judgment accrued interest and costs and attorneys fees for the appeal, totaled $984,398.82.[7] On May 8, 2006, Vandevort filed an objection to CAB's claim. In it, he argued that because the claim was based on the Judgment that was entered in favor of "Robert E. McKee, a California corporation," and because such a corporation did not exist, that CAB's assignment was void as having been taken from a non-existent California corporation. Thus, Vandevort contended, CAB's claim should be disallowed.

A hearing on Vandevort's objection to CAB's claim was scheduled for June 7, 2006. On May 30, 2006, Vandevort filed a Motion to (1) Continue the Hearing on the Objection to Claim No.7;

---

[6] Unless otherwise indicated, all chapter, section and rule references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036, as enacted and promulgated prior to the effective date (October 17, 2005) of most of the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub. L. 109-8, April 20, 2005, 119 Stat. 23.

[7] CAB calculated the claim as follows: $730,193.15, Judgment; $202,860.84, post-Judgment interest, April 12, 2002 to January 20, 2005 at ten percent; $47,831.35, costs and attorney's fees after unsuccessful appeal; $3,513.48, interest on costs and attorney's fees after unsuccessful appeal. Total: $984,398.82.

and/or (2) Treat the Initial Hearing on the Objection to Claim No. 7 as a Status Conference. Vandevort argued that he needed additional time to conduct discovery on "what McKee [Nevada]'s intent was in not filing a motion to dismiss or amend the complaint in the [Superior Court Action] so that McKee [California] was not a defendant therein and McKee [Nevada] was properly substituted in as a defendant." Vandevort also sought the continuance because he alleged that his attorney would not be able to attend the hearing on June 7, 2006.[8]

CAB responded to Vandevort's motion on June 5, 2006. It alleged that no discovery was needed because CAB's intent was irrelevant; that McKee Nevada had answered the complaint in state court and submitted all subsequent pleadings in its correct name; and, in any case, that McKee Nevada, as a defendant in the Superior Court Action, had no power to amend the complaint - only the plaintiff may do that.

Immediately before the hearing, on June 6, 2006, Vandevort filed a reply to CAB's response, adding the further allegation that, even if the McKee in the State Court Action was a Nevada corporation, it had not established its authority under Nevada law and its corporate governing instruments to defend itself and pursue damages in the State Court Action or to assign the Judgment.

The bankruptcy court conducted the hearing on Vandevort's objection to CAB's claim on June 7, 2006. The court denied both Vandevort's motion for a continuance motion and his objection to CAB's claim, finding that, based upon the record, the issues

[8] Ultimately, Vandevort's attorney's partner appeared and represented him at the June 7 hearing.

raised in Vandevort's objection could be resolved as a matter of California and Nevada law, and that discovery and continuance of the hearing were unnecessary.

In reaching its decision, the bankruptcy court relied upon Cal. Code Civ. Proc. §§ 475 and 473, Cal. Corp. Code § 2115(b), and Nevada Revised Statutes § 78.585. The court concluded that § 475 directs the court to disregard any error or defect in a complaint which, in the opinion of the court, does not affect the substantial rights of the parties. Section 473, in turn, empowers a court to amend pleadings "if the proper defendant is before the court, even there under a wrong name, and if the defendant is the party the plaintiff intended to sue. . . ."

Regarding Vandevort's suggestion that, if McKee had been a Nevada corporation, it was a dissolved corporation and thus did not have the power to defend the Superior Court Action nor to assign the Judgment to CAB, the court first examined whether California or Nevada law applied to the actions of a dissolved Nevada corporation operating in California. Deciding that California law did not control, the court looked to Nevada Revised Statutes § 78.585, which details the powers of a dissolved Nevada corporation. It found that since McKee Nevada was not dissolved until 1997, three years after Vandevort commenced his lawsuit, the company was empowered by the Nevada statutes to defend the action. Nev. Rev. Stat. 78.585. In addition, although the suit continued after dissolution, the court noted that, under Nevada law, a dissolved corporation continues as a body corporate for the purpose of defending lawsuits, meeting obligations and disbursing assets.

Based on its analysis of the statutes, the court concluded:

> It is clear that the Debtor intended and, in fact, did sue McKee, the Nevada corporation, even though he had a slightly incorrect name for that corporation [in the caption of the complaint]. In every pleading up until the time of entry of judgment, McKee, the Nevada corporation, attempted to advise the court that its correct name was McKee, a Nevada corporation, by putting that on every pleading.
>
> So, there is no evidence that McKee was trying to mislead the Court at that time. And whether the defendant in that lawsuit was named McKee, a California corporation, or McKee, a Nevada Corporation, it appears that precisely the same result would have occurred and that this slight misnomer was nothing more than a technicality that had no effect on the actual outcome of the litigation. . . .
>
> [The argument] that McKee had no rights to the judgment because it was dissolved in 1996 and therefore had no right to do business . . . is faulty. Even though McKee may have had no right to conduct business, it did have the right to litigate suits against it, to collect and discharge its obligations, and to disburse its assets. I understand the Debtor commenced this suit before the dissolution of the corporation took place and it was based on claims that arose before the dissolution of the corporation. McKee clearly had the power to defend the suit and to assign its judgment to [CAB]. For all these reasons, I am overruling the Debtor's objection to this claim.

Tr. Hr'g 8:15 - 9:16 (June 7, 2006).

The bankruptcy court issued two orders following the hearing. In the first order, dated June 7, 2006, the court denied Vandevort's Motion to (1) Continue the Hearing on the Objection to Claim No. 7; and/or (2) Treat the Initial Hearing on the Objection to Claim No. 7 as a Status Conference. Vandevort timely appealed this order on June 19, 2006 (a Monday). The court issued a second order dated June 30, 2006 (entered on July 3, 2006), overruling

Vandevort's objection to CAB's Claim no. 7 and denying the continuance motion. Vandevort also timely appealed this order on July 13, 2006. We consolidated the two appeals on October 24, 2006.

## JURISDICTION

The bankruptcy court had jurisdiction pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(B). We have jurisdiction pursuant to 28 U.S.C. § 158(b).

## ISSUES

1. Whether the bankruptcy court erred in denying Vandevort's objection to CAB's claim based upon state law.
2. Whether the bankruptcy court abused its discretion in denying Vandevort's motion to continue the hearing on his objection to CAB's claim in order to conduct discovery.

## STANDARDS OF REVIEW

We review a bankruptcy court's interpretation of state law de novo. Smith v. Lachter (In re Smith), 352 B.R. 702, 706 (9th Cir. BAP 2006). A decision to deny a continuance is reviewed for abuse of discretion. Orr v. Bank of America, 285 F.3d 764, 783 (9th Cir. 2002). Discovery decisions are reviewed for abuse of discretion. Cacique v. Robert Reiser Co., 169 F.3d 619, 622 (9th Cir. 1999).

## DISCUSSION[9]

Vandevort's objection to CAB's claim reduces to two arguments: (1) that assignment of the Judgment to CAB was void

---

[9] On our own motion, we have considered whether Vandevort has standing to object to CAB's claim, and to appeal the bankruptcy court's decision overruling that objection. "Standing represents a jurisdictional requirement which remains open to review at all stages of the litigation." Nat'l Org. for Women, Inc. v. Scheidler, 510 U.S. 249, 255 (1994).

Debtors in chapter 7 do not ordinarily have standing to appeal orders of the bankruptcy court concerning claims made against the estate because the debtor has no pecuniary interest in the property of the estate. Stoll v. Quintinar (In re Stoll), 252 B.R. 492, 495 (9th Cir. BAP 2000). Only debtors who are directly and adversely affected pecuniarily by an order have standing to appeal the order. Paine v. Dickey (In re Paine), 250 B.R. 99, 104 (9th Cir. BAP 2000). A debtor is "directly and adversely affected pecuniarily" if the order would "diminish the debtor's property, increase his burdens, or detrimentally affect his rights." In re Fondiller, 707 F.2d 441, 442-43 (9th Cir. 1983).

We conclude that Vandevort has a pecuniary interest in the outcome of an objection to the allowance of the CAB claim. As counsel for CAB acknowledged at oral argument, the bankruptcy court, in Adv. Proc. No. 05-2169, has entered its judgment denying Vandevort a discharge in this case pursuant to § 727(a)(4)(A). Vandevort has appealed the bankruptcy court's decision to the U.S. District Court for the Central District of California, No. CV-06-6389-FMC. That appeal remains pending. Should the district court sustain the bankruptcy court's denial of a discharge, Vandevort will remain liable on the debt represented by CAB's claim. Thus, Vandevort has a pecuniary interest in the outcome of his objection to the validity of CAB's claim. We are satisfied that this justifies standing to bring this appeal.

We have also considered Vandevort's standing to challenge the validity of the assignment of the judgment to CAB under state law. California law allows judgments to be assigned. Cal. Code Civ. Proc. § 954. However, an assignee acquires all rights of the assignor, subject to any defenses the judgment debtor had against the assignor before he receives notice of the assignment. Great W. Bank v. Hong, 90 Cal. App. 4th 297, 297 (Cal. Ct. App. 2001) (emphasis added). In addition to the implicit standing to challenge the rights an assignee might have under an assignment, California law bestows general standing on any party with "some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large." Carsten v. Psychology Examining Comm'n, 27 Cal.3d 793, 796 (1980). Again, we conclude that Vandevort has standing to challenge CAB's claim under the assigned judgment, and to appeal the bankruptcy court's decisions.

because it was purportedly executed by McKee California, a corporation that does not exist, and not by McKee Nevada; and (2) that even if McKee Nevada, was in fact the party that participated in the Superior Court Action, it was not a proper party because it was a dissolved corporation that could not be sued, receive a judgment, or assign a judgment.

The bankruptcy court denied Vandevort's request for a continuance of the hearing on the claim objection to conduct discovery to develop the facts to prove these arguments. It also overruled Vandevort's objection to CAB's claim because Vandevort's arguments lacked any merit as a matter of law. We do not believe the bankruptcy court erred in making either decision.

**A.**

Despite Vandevort's allegation that CAB received its assignment of the Judgment from a nonexistent McKee California entity, the bankruptcy court concluded that McKee Nevada, not McKee California, had been the defendant that participated in the Superior Court Action, that was awarded a judgment in that action, and that had assigned the Judgment to CAB. The court based its finding on the uncontradicted evidence in the record that "in every pleading up until time of entry of [the Judgment], McKee, the Nevada corporation, attempted to advise the court that its correct name was McKee, a Nevada corporation, by putting that [name] on every single pleading." Tr. Hr'g 8:17-21.[10] The court

[10] The bankruptcy court did not address the error in the Acknowledgment of Assignment executed by counsel for CAB indicating that CAB has received the assignment from McKee "a California corporation." We think this document is of no moment (continued...)

also found that, whether the defendant was named McKee California, or McKee Nevada, "there was no evidence that McKee was trying to mislead the [state] court" and "precisely the same result would have occurred and that this slight misnomer was nothing more than a technicality that had no effect on the actual outcome of the litigation." Tr. Hr'g 8:25-9:1.

The validity of CAB's claim in Vandevort's bankruptcy case is measured under state law. Mandalay Resort Group v. Miller (In re Miller), 292 B.R. 409, 412 (9th Cir. BAP 2003); § 502(b)(1) (providing that the bankruptcy court shall allow a claim except to the extent that such claim is unenforceable against the debtor under "applicable" law.) Under California law, if there was an error in the complaint commencing an action, but the error had no effect on the result, a state court would be compelled to disregard the error. Cal. Code Civ. Pro. § 475(2006) provides that:

> The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of the court, does not affect the substantial rights of the parties. No judgment, decision, or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction or defect was prejudicial, and also that by reason of such

---

[10](...continued)
in our analysis. Given the long history of pleadings uniformly submitted in the Superior Court Action by the McKee entity with the "Nevada" designation, we do not consider significant an error in submission of a single pleading after entry of the Judgment by the state court. Moreover, the acknowledgment was signed by an attorney new to the case, who thereafter submitted a Clarification to the state court in which he stated that the California designation was erroneous. In addition, Vandevort offered no evidence to indicate that this was anything other than an error committed by counsel.

> error, ruling, instruction, or defect the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed.

There is nothing in the record to dispute the bankruptcy court's finding that Vandevort's designation of McKee California, as the defendant in the original state court complaint, was an error. Nor did Vandevort propose discovery on this question. Indeed, the record is clear that the company that participated throughout the Superior Court Action was a Nevada corporation. There is also no evidence that the error in the caption of the complaint, which was perpetuated in subsequent pleadings filed in the Superior Court Action, affected any substantial rights of the parties to that action or resulted in any prejudice to Vandevort. Finally, we agree with the bankruptcy court that there is no evidence that a different result would have occurred in the Superior Court Action had the error not occurred. As a result, under a plain reading of § 475, the bankruptcy court properly disregarded the error, and the validity of the Judgment was not affected.[11]

Although the bankruptcy court did not rely on case law, the consistent rule in California has been that courts may disregard errors in pleadings, especially where, as here, the error is in

---

[11] The bankruptcy court also noted that under Cal. Code Civ. Proc. § 473, the state court, if asked, was free to amend pleadings in furtherance of justice. This statutory provision allowing courts to permit amendments in furtherance of justice has received a very liberal interpretation by the courts of California. Atkinson v. Elks Corp., 109 Cal. App.4th 739, 758 (Cal. Ct. App. 2003)(citing Klopstock v. Superior Court, 17 Cal.2d 13, 19 (1941).

the caption of the complaint and not the body of the pleadings. Bell v. Tri-City Hospital Dist.,, 196 Cal. App.3d 438, 445-46 (Cal. Ct. App. 1987) ("In determining who the parties to an action are, the whole body of the complaint is to be taken into account, and not the caption merely.") The California approach is consistent with federal practice. See FED. R. CIV. P. 8(f) ("All pleadings shall be so construed as to do substantial justice."); 5A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FED. PRAC. & PROC. § 1321 (3rd ed. 2004) ("[T]he caption is not determinative as to the identity of the parties to the action . . . . ").

There is additional support in the record for the bankruptcy court's conclusion that McKee Nevada, not McKee California, was the defendant in the Superior Court Action. Public records disclose that, during the pendency of the Superior Court Action, the only McKee corporate entity registered to do business with the California Secretary of State was McKee Nevada. Further, Vandevort should have been aware that, at the time of the Superior Court Action, the defendant he was litigating with was McKee Nevada. In a letter dated November 19, 1997, from Vandevort to Noel Watson of the Jacobs Engineering Group, the corporate parent of McKee Nevada, Vandevort refers to Watson's declaration filed in the State Court Action. ("In your declaration you stated that Jacobs has thousands of on going projects."). In that declaration, Watson explains that "In 1987 Jacobs acquired Robert E. McKee, Inc. ("McKee"), a general contractor. McKee is now a dissolved Nevada corporation." (Emphasis added.)

For all these reasons, we conclude that the bankruptcy court did not err in determining that, based upon the evidence in the

record and California state law, McKee Nevada, not McKee California, was the defendant that participated in the Superior Court Action and, consequently, the holder of the Judgment entered in that action.[12]

**B.**

Having determined that McKee Nevada owned the Judgment, we now turn to Vandevort's alternative argument that CAB could not take an assignment of the Judgment from McKee Nevada, because that corporation had been dissolved at the time the Judgment was entered in 2002.

More particularly, Vandevort argues that, even if McKee Nevada, defended the Superior Court Action, received a Judgment,

---

[12] Before leaving the discussion of McKee California, we note that Vandevort attached a document to his Reply Brief which appears to be a copy of a contract between "Robert E. McKee Construction, Inc., a California Corporation," and the City of Glendale. In his argument, Vandevort suggests this document shows that the only McKee entity operating during the Superior Court Action was McKee California. Vandevort also relies upon this document to assert in his Reply Brief that "Only Robert E. McKee, Inc., a California corporation, had the contractor's license and entered into the contract that was the basis of the suit."

We can not discern whether this document was ever submitted to the bankruptcy court. It does not appear in the excerpts of record. It is far too late to spring new evidence on CAB and the Panel in a Reply Brief.

Moreover, the import of this attachment to Vandevort's brief is, at best, suspect. The "contract" does not appear to be a complete copy nor does it contain any signatures or other indication that it was ever executed or effective. It is dated 1990, and thus is not probative as to the existence of any corporate entities during the time of the Superior Court Action from 1994 to 2002. The document makes no reference to a contractor's license, and an entity known as "Robert E. McKee Construction, Inc., a California corporation" cannot be assumed to be the same entity as "Robert E. McKee, Inc., a California corporation." For these reasons, we decline to assign any significance to this tardy submission.

and assigned that Judgment to CAB, such is of no consequence because it had been dissolved in 1996. While Vandevort's argument may have support as a matter of common law, both California and Nevada have enacted statutes that nullify the usual common law rules and allow dissolved corporations to wind down their business affairs. As a result, McKee Nevada, could indeed defend the action and assign the Judgment to CAB.

The bankruptcy court correctly decided that the California statutes concerning powers of dissolved corporations do not apply to foreign corporations doing business in California. According to § 2115(b) of the California Corporations Code, a foreign corporation doing business in California is subject to certain enumerated provisions of the California Corporations Code "to the exclusion of the law of the jurisdiction in which it is incorporated." The section of the California Corporations Code governing powers of dissolved corporations, § 2001, is not among those listed in § 2115(b). Therefore, California law does not override the powers of a dissolved Nevada corporation under Nevada law doing business in California.[13] Nev. Rev. Stat. 78.585(1)

---

[13] We note, however, that even if California law were to apply to the powers of a dissolved Nevada corporation, California law is substantially identical to Nevada law.

> A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and <u>defending actions by or against it</u> and enabling it to collect and discharge obligations, <u>dispose of and convey its property and collect and divide its assets</u>, but not for the purpose of continuing business except so far as necessary for the winding up thereof.

CAL. CORP. CODE § 2010(a)(emphasis added).

(2006), which the bankruptcy court correctly consulted, provides:

> The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or shareholders arising before its dissolution and commenced within 2 years after the date of dissolution. It continues as a body corporate for the purpose of prosecuting and defending suits, actions, proceedings and claims of any kind and character by or against it and enabling it gradually to settle and close its business, to collect and discharge its obligations, to dispose of and convey its property, and to distribute its assets, but not for the purpose of continuing the business for which it was established.

(Emphasis added.) The Supreme Court of Nevada has ruled that Nev. Rev. Stat. 78.585 abrogated the common law rule by giving a dissolved Nevada corporation the power to sue and be sued and dispose of property. Kelly Broadcasting, Inc. v. Sovereign Broadcast, Inc., 96 Nev. 188, 190 (1980). As appears undisputed in the record, the bankruptcy court found that the Superior Court Action, commenced in 1994, was based on claims arising before dissolution of McKee Nevada. Thus, based on the facts in the record, and the unambiguous authority conferred on a dissolved Nevada corporation by Nev. Rev. Stat. 78.585, McKee Nevada could defend the Superior Court Action, collect its obligations, and convey its assets. Or, in the bankruptcy court's words, "McKee [Nevada] clearly had the power to defend the suit and to assign its judgment to [CAB]." Tr. Hr'g 9:14-16.

Since CAB received a valid assignment of the Judgment against Vandevort from McKee Nevada, under § 502(b)(1), it held an allowable claim in Vandevort's bankruptcy case. The bankruptcy court did not err in denying Vandevort's objection to CAB's claim.

**C.**

In addition, for all the above reasons, the bankruptcy court did not abuse its discretion in denying Vandevort's motion for a continuance of the hearing to conduct discovery. He proposed no relevant discovery, and the material facts were undisputed in the record. There was only a single McKee corporate entity (i.e., McKee Nevada) that participated in the Superior Court Action. That corporation recovered the Judgment, and then assigned it to CAB. The fact that other McKee entities might have existed at some time is immaterial. Given the issues framed by Vandevort's objection, allowing a continuance to pursue discovery concerning irrelevant or immaterial issues of fact would have been a "per se abuse of discretion." Cacique v. Robert Reiser Co., 169 F.3d 619, 622 (9th Cir. 1999).

**Conclusion**

We AFFIRM the orders of the bankruptcy court.