

MAR 10 2006

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NOT FOR PUBLICATION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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

In re:)	BAP No. CC-04-1605-MaMoPa
)	
G. GREGORY WILLIAMS,)	Bk. No. LA 03-35597 SB
)	
Debtor.)	Adv. No. LA 04-02775 SB
)	
<hr/>		
G. GREGORY WILLIAMS,)	
)	
Appellant,)	
)	MEMORANDUM ¹
v.)	
)	
FRANKLIN TOWERS HOMEOWNERS)	
ASSOCIATION, INC.; R.E.F.S., INC.;)	
COUNTY OF LOS ANGELES SHERIFF'S)	
DEPT.; BEVERLY HILLS INVESTORS,)	
INC.; LEVI ESTATES, LLC; GOLD)	
REALTORS; ELI LEVI; ALEX ROMAN;)	
ROLAND WATKINS; CHRISTIE GAUMER;)	
AARON G. BOVSHOW; PETER D. GORDON;)	
HOWARD J. GOODMAN; WILLIAM K.)	
CROWE; STEVEN CASSELBERRY;)	
ELIZABETH BERBER; UNITED STATES)	
TRUSTEE; NANCY CURRY, Chapter 13)	
Trustee,)	
)	
Appellees. ²)	

¹ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except when relevant under rules of res judicata, including issue and claim preclusion. See 9th Cir. BAP Rule 8013-1.

² Of the appellees, only the following submitted briefs: (1) Eli Levi; Levi Estates, LLC; Beverly Hills Investors, LLC; counsel Aaron G. Bovshow; Peter D. Gordon and Christie Gaumer; (2) Franklin Towers Homeowners Association; Roland Watkins and Alex Roman; and (3) R.E.F.S., Inc.; Elizabeth Berber; William K. Crowe and Steven Casselberry.

1 Argued and Submitted on November 18, 2005
2 at Los Angeles, California

3 Filed - March 10, 2006

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

6 Honorable Samuel L. Bufford, Bankruptcy Judge, Presiding.
7

8 Before: MARLAR, MONTALI and PAPPAS, Bankruptcy Judges.
9

10
11
12 **INTRODUCTION**

13
14 In this appeal, a former chapter 13³ debtor seeks to overturn
15 the bankruptcy court's order denying the debtor's motion to recuse
16 and the bankruptcy court's order granting a motion to remand. We
17 AFFIRM.

18
19 **FACTS**

20
21 **1. The Townhouse Foreclosure**

22
23 G. Gregory Williams ("Williams"), who describes himself as a
24 "retired attorney," lived at a condominium unit in Los Angeles.
25 Williams purchased the condo in 1995. By deed recorded April 21,
26

27 ³ Unless otherwise indicated, all chapter, section and
28 rule references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330,
and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036.

1 1999, Williams transferred title to P. Toi Polpantu ("Polpantu").
2 By another deed, also dated April 21, 1999, Polpantu quitclaimed
3 title back to Williams. This latter deed was not recorded at the
4 time of transfer.

5 When approximately \$11,000 in dues went unpaid, Franklin
6 Towers Homeowners Association, Inc. ("Franklin HOA") gave notice
7 of its intent to conduct a non-judicial foreclosure sale of the
8 condo on April 3, 2003.

9 The scheduled non-judicial sale was conducted on April 3,
10 2003, and appellee Eli Levi ("Levi") was the successful purchaser
11 with a bid of \$215,000.

12

13 **2. The Chapter 13**

14

15 On April 1, 2003, two days before the foreclosure sale,
16 Williams filed a chapter 13 bankruptcy petition.⁴ It was only a
17 "face sheet" or "skeleton" petition, without accompanying
18 schedules, statement of financial affairs, or a proposed plan.
19 Nothing that Williams filed on April 1, 2003 indicated that he
20 claimed any interest in the condo. Levi claims that Williams did
21 not provide notice of his bankruptcy filing to Levi before the
22 foreclosure sale.⁵

23

24 ⁴ This was Williams' second bankruptcy filing. Williams'
25 first bankruptcy was filed on August 5, 2002. It was dismissed
and is not relevant to this appeal.

26 ⁵ In this court's prior published decision regarding this
27 controversy, this court states Levi "does not contest that
28 Williams had given him notice of the filing of the chapter 13
petition before the sale occurred." In re Williams, 323 B.R. 691,
(continued...)

1 Williams recorded the four year-old Polpantu to Williams
2 quitclaim deed three days after filing his bankruptcy and one day
3 after the foreclosure sale.
4

5 **3. State Court Proceedings**

6
7 On April 8, 2003, Levi filed and served on Polpantu a
8 statutory notice to quit. Although Williams did not avail himself
9 of his right under California law to file a notice of right to
10 claim possession of the premises,⁶ Levi does not dispute that he
11 knew Williams was living in the condo. A foreclosure trustee's
12 deed in favor of Levi was recorded on April 11, 2003.

13 On April 22, 2003, Levi filed an unlawful detainer action
14 against Polpantu in state court. After Polpantu failed to respond
15 to Levi's complaint, Levi obtained a default judgment against her
16 and "all other occupants" in the unlawful detainer case.

17 Williams subsequently filed an ex parte application to enjoin
18 the eviction, which the state court denied. Levi then took
19 possession of the condo on June 18, 2003.
20

21 **4. Proceedings in Bankruptcy Court**

22
23 After the state court judge refused to enjoin the eviction,
24

25 ⁵(...continued)
26 695 (9th Cir. BAP 2005). Regardless of the discrepancy, because
27 Levi was not a creditor of Williams, Williams was not required to
give Levi notice of his bankruptcy filing.

28 ⁶ Cal. Civ. Proc. Code § 1174.3.

1 Williams filed an ex parte motion in bankruptcy court, on June 20,
2 2003, to stay the eviction. On June 25, 2003, the bankruptcy
3 court temporarily enjoined the eviction and Williams retook
4 possession of the condo.

5 Williams then filed a motion to enjoin the state court
6 unlawful detainer action, and Levi countered by moving for stay
7 relief.

8 However, Williams' chapter 13 was then dismissed on August 7,
9 2003, for failure to comply with statutory requirements.

10
11 **5. A New State Court Action is Filed**

12
13 After the dismissal of Williams' chapter 13 bankruptcy, Levi
14 filed an action in state court seeking to cancel Williams' deed,
15 quiet title and obtain damages. On September 18, the state court
16 issued a writ for eviction in favor of Levi.

17
18 **6. Williams Files Bankruptcy Again**

19
20 In order to stop the eviction, scheduled for October 8, 2003,
21 Williams filed his third chapter 13 bankruptcy case, along with an
22 ex parte application to stay eviction. The bankruptcy court
23 granted temporary relief, once more stopping the scheduled
24 eviction.

25 Levi then moved for stay relief in order to obtain possession
26 of the condo. Williams opposed the motion and countered for stay-
27 violation damages. Williams did not ask the bankruptcy court to
28 rule that either the sale or the unlawful detainer action were

1 void. After a number of continuances, the bankruptcy court issued
2 a written order retroactively granting relief from stay from and
3 after April 1, 2003, the date of the foreclosure sale, and denying
4 Williams' motion to stay eviction.

5 Williams appealed the December 31, 2003, bankruptcy court
6 order to the Bankruptcy Appellate Panel.⁷ Shortly after, on
7 February 9, 2004, Williams' third chapter 13 was dismissed, again
8 terminating the automatic stay.

9
10 **7. In State Court Again**

11
12 On March 2, 2004, Levi filed a state court action seeking to
13 cancel the April 4, 2003 recorded deed from Polpantu to Williams.

14 Williams demurred to the complaint in the state court action,
15 twice, each time asserting that Levi's purchase of the condo and
16 conduct afterwards in the unlawful detainer action and the
17 bankruptcy proceedings violated the automatic stay. Williams'
18 demurrers were overruled, except as to one cause of action where
19 the court granted leave to amend.

20 Williams subsequently filed a cross-complaint in the state
21 court action naming Levi, Levi's businesses, Levi's attorneys,
22 Franklin HOA, and R.E.F.S., Inc. (the foreclosure trustee), among
23 other defendants, alleging that their actions had violated the
24 automatic stay and that Williams was entitled to damages.

25 On September 20, 2004, Levi filed a motion to strike
26

27 ⁷ In re Williams, 323 B.R. 691 (9th Cir. BAP 2005). The
28 decision on that appeal was filed on March 25, 2005. See Facts,
Sec. 10 of this Memorandum.

1 Williams' cross-complaint under California's anti-SLAPP statute.
2 Cal. Civ. Proc. Code § 415.16. However, before the hearing on
3 Levi's motion, Williams filed a notice of removal to the United
4 States District Court. The state court acknowledged the removal
5 notice and vacated the hearing on Levi's motion to strike.

6
7 **8. District Court Proceedings**

8
9 Shortly after removal, the district court issued an order to
10 show cause as to why the case should not be remanded to state
11 court, and Levi so moved, as well. However, prior to the remand
12 hearing, Williams filed a motion requesting that the case be
13 referred to bankruptcy court. The district court then assigned
14 the case to bankruptcy court to consider Levi's remand motion.

15
16 **9. In Bankruptcy Court Again, and the Instant Appeal**

17
18 With the case back in bankruptcy court, Williams filed a
19 motion to recuse the trial judge.⁸ The motion was denied. The
20 next day, the bankruptcy court granted Levi's remand motion, and
21 Williams timely appealed. Both orders are included in the appeal
22 currently before the Panel.

23
24 **10. Earlier Appeal to the Bankruptcy Appellate Panel**

25
26 On March 25, 2005, the Bankruptcy Appellate Panel issued its

27
28

⁸ Honorable Samuel L. Bufford.

1 decision regarding Williams' appeal of the bankruptcy court's
2 December 31, 2003 stay relief order. This court affirmed the
3 bankruptcy court's decision to annul the automatic stay, but
4 remanded for consideration of Williams' claim for § 362(h) stay
5 violation damages. It also dismissed, as moot, Williams' appeal
6 from the bankruptcy court's denial of a stay of the eviction
7 action. Williams appealed this decision to the Ninth Circuit,
8 which is currently pending. No stay pending appeal is in effect.

9
10 **11. Continuation of State Court Proceeding**

11
12 Following remand, on June 24, 2005, the state court granted
13 Levi's motion to strike, and dismissed Williams' cross-complaint
14 insofar as it applied to the Levi parties. Williams then filed,
15 in the bankruptcy court, a second amended notice of appeal, and
16 moved for a stay pending appeal, which this court denied.

17
18 **ISSUES**

19
20 1. Whether the bankruptcy court's order granting Levi's
21 motion to remand is an appealable order.

22
23 2. If so, whether the bankruptcy court erred in granting
24 Levi's motion to remand.

25
26 3. Whether the bankruptcy court's order denying Williams'
27 motion to recuse is an appealable order.

1 basis supported by the record, even where the issue was not
2 expressly considered by the bankruptcy court. In re E.R. Fegert,
3 Inc., 887 F.2d 955, 957 (9th Cir. 1989) (citing In re Pizza of
4 Hawaii, Inc., 761 F.2d 1374, 1379 (9th Cir. 1985)).

6 DISCUSSION

8 1. Whether the bankruptcy court's order granting Levi's 9 motion to remand is an appealable order.

10 Williams argues that the panel has jurisdiction to hear the
11 appeal from the bankruptcy court's order granting Levi's motion
12 for remand because the order was final, since it conclusively
13 determined disputed issues and effectively put the parties out of
14 court by depriving them of a federal forum. He argues that this
15 order had the effect of surrendering jurisdiction of a federal
16 suit to a state court.

17 Levi argues that the order granting his motion to remand does
18 not fit into any of the narrow exceptions of Cohen v. Beneficial
19 Industrial Loan Corp., 337 U.S. 541 (1949). In addition, Levi
20 argues that 28 U.S.C. § 1447(d) provides that an order remanding a
21 case to state court is not reviewable on appeal or otherwise.

22 Franklin HOA and R.E.F.S. argue that the panel does not have
23 jurisdiction to hear an appeal of the remand order because (1) the
24 remand order is not a final judgment, order or decree; (2) orders
25 remanding non-civil rights cases to state court are expressly not
26 reviewable; and (3) appeals cannot lie on remand orders based on
27 timely raised defects in the removal procedure.

28 However, 28 U.S.C. § 1492(b) allows remand under "any

1 equitable ground." "[A] bankruptcy court's decision to remand
2 under that provision can be reviewed only by a district court or a
3 bankruptcy appellate panel" McCarthy v. Prince (In re
4 McCarthy), 230 B.R. 414, 417 (9th Cir. BAP 1999) (citing Things
5 Remembered, Inc. v. Petrarca, 516 U.S. 124 (1995)).

6 Williams provided the panel with the formal order granting
7 Levi's motion for remand, which states "for good cause shown" and
8 the transcript of the November 30, 2004 hearing where the
9 bankruptcy court heard the motion for remand. However, the
10 transcript of the November 30, 2004 hearing is not helpful because
11 the court relies on its tentative ruling in granting the motion
12 for remand. A copy of the court's tentative ruling, which
13 presumably laid out its findings of fact and conclusions of law,
14 was not included in the record. Bankr. R. 8006 requires that the
15 "record on appeal shall include . . . findings of fact, and
16 conclusions of law of the court."

17 Since Williams' record on appeal omits the bankruptcy court's
18 findings of fact and conclusions of law regarding its decision to
19 grant Levi's motion to remand, the record is, as a matter of law,
20 incomplete.

21 Williams' "failure to provide the one document that would
22 directly identify the manner in which the bankruptcy court
23 exercised its discretion entitles us to dismiss this appeal."
24 McCarthy, 230 B.R. at 417. However, the panel chooses to exercise
25 its discretion to examine what record we have been provided. The
26 panel will look for any plausible basis on which the bankruptcy
27 court might have exercised its discretion to grant Levi's motion
28 to remand. If we find any such basis, we must affirm.

1 Thus, we find that the remand order is an appealable order.

2
3 **2. Whether the bankruptcy court erred in granting Levi's**
4 **motion to remand.**

5 Williams argues that the bankruptcy court erred in granting
6 the remand motion because the case is a core proceeding, therefore
7 requiring the bankruptcy court to exercise the exclusive
8 jurisdiction given it under 28 U.S.C. § 1334(a).

9 Levi argues that the remand motion was properly granted
10 because (1) Williams did not file the removal within 30 days after
11 service of Levi's state court complaint; (2) Williams was not the
12 only defendant and thus could not remove the state court action;
13 (3) Williams was a plaintiff by virtue of his cross-complaint and
14 therefore could not remove the state court action; and (4) the
15 district court, to which the case was originally remanded, lacked
16 jurisdiction to hear Williams' cross-complaint.

17 R.E.F.S. argues that the remand order should be affirmed on
18 appeal because (1) Williams' removal was untimely; and (2)
19 Williams did not have the right of removal because he was the
20 plaintiff on the cross-complaint.

21 The "'any equitable ground' remand standard is an unusually
22 broad grant of authority. It subsumes and reaches beyond all of
23 the reasons for remand under nonbankruptcy removal statutes."
24 McCarthy, 230 B.R. at 417.

25 First, a notice of removal "may be filed with the clerk only
26 within the shorter of (A) 30 days after receipt, through service
27 or otherwise, of a copy of the initial pleading setting forth the
28 claim or cause of action sought to be removed or (B) 30 days after

1 receipt of the summons if the initial pleading has been filed with
2 the court but not served with the summons". Bankr. R. 9027(a)(3).
3 The initial pleading, which was Levi's state court complaint, was
4 filed March 2, 2004. The record does not include a proof of
5 service on Williams, so the date of service upon Williams is
6 unknown. However, Williams filed a demurrer to Levi's complaint
7 on April 5, 2005. Williams also filed an answer and cross-
8 complaint on August 20, 2004. Since Williams did not file his
9 notice of removal until October 15, 2004, well after thirty days
10 of receiving Levi's complaint and responding thereto on the
11 merits, we find Williams' notice of removal to be untimely.

12 Second, a defendant's filing of a cross-complaint invokes the
13 state court's jurisdiction, thereby waiving the defendant's right
14 to remove the case to federal court. Hansen v. Pacific Coast
15 Asphalt Cement Co., 243 F. 283, 284 (S.D. Cal. 1917) (citing Texas
16 & P. Ry. Co. v. Eastin & Knox, 214 U.S. 153 (1909)). Because
17 Williams filed his cross-complaint in state court, he waived his
18 right to remove the case to federal court.

19 Finally, Williams' removal notice stated that the district
20 court had original jurisdiction over the causes of action set
21 forth in the cross-complaint. Williams' cross-complaint generally
22 alleges violations of the automatic stay, which claims are
23 traditionally litigated as core proceedings in bankruptcy court,
24 not district court.⁹ The district court exercised its statutory

26 ⁹ Of course, we acknowledge that under the bankruptcy
27 statute, the district court has original jurisdiction of
28 bankruptcy cases, 28 U.S.C. § 1334, but that district courts may
refer "any or all proceedings arising under Title 11" to the

(continued...)

1 power to refer the removed case to the bankruptcy court.
2 Therefore, since the district court had exclusive jurisdiction to
3 decide issues concerning the complaint, and also had the power to
4 refer the matter to the bankruptcy court, we perceive no error in
5 that decision.

6 Because Williams did not timely file his notice of removal,
7 waived his right to removal by filing a cross-complaint in state
8 court, and the district court properly referred the removal issues
9 to the bankruptcy court, the bankruptcy court did not err in
10 granting Levi's motion to remand.

11

12 **3. Whether the bankruptcy court's order denying Williams'**
13 **motion to recuse is an appealable order.**

14 Williams argues that the order denying his recusal motion
15 comes within the Cohen collateral order doctrine,¹⁰ and is,
16 therefore, reviewable.

17 Franklin HOA and R.E.F.S. argue that the order denying
18 Williams' recusal motion is interlocutory, and not appealable.
19 Therefore, the panel lacks jurisdiction to consider this issue on
20 appeal.

21

22 ⁹(...continued)
23 bankruptcy court. 28 U.S.C. § 157(a).

24 ¹⁰ The collateral order doctrine enunciated in Cohen v.
25 Beneficia. Indus. Loan Corp., 337 U.S. 541 (1949), allows courts
26 of appeals to treat orders that are interlocutory in nature as
27 final under 28 U.S.C. § 1291 if three conditions are met. The
28 order must (1) conclusively determine the disputed question; (2)
resolve an important question completely separate from the merits
of the action; and (3) be effectively unreviewable on appeal from
final judgment. Coopers & Lybrand v. Livesay, 437 U.S. 463, 468
(1978).

1 An order denying a motion to recuse is interlocutory until a
2 final decision is entered. "The decision of a bankruptcy judge
3 not to disqualify himself, however, cannot be appealed until a
4 direct appeal is taken from a final decision adverse to the moving
5 party." Stewart Enterprises, Inc. v. Horton (In re Horton), 621
6 F.2d 968, 970 (9th Cir. 1980), quoted in Seidel v. Durkin (In re
7 Goodwin), 194 B.R. 214, 221 (9th Cir. BAP 1996).

8 Appeals are authorized only from final orders and, with leave
9 of the court, from interlocutory orders. 28 U.S.C. § 158(a).

10 Thus, an order denying recusal is not final, and this panel did
11 not grant leave to appeal.

12 However, interlocutory orders merge into the final judgment
13 and may be challenged in an appeal of the final judgment. Baldwin
14 v. Redwood City, 540 F.2d 1360, 1364 (9th Cir. 1976), cert.
15 denied, 431 U.S. 913 (1977). Since the bankruptcy court's order
16 to remand was a final order in this case, the interlocutory order
17 denying the recusal motion merges into the final order to remand,
18 and is therefore subject to review by this court.

19
20 **4. Whether the bankruptcy court abused its discretion in**
21 **denying Williams' motion to recuse the bankruptcy judge.**

22 Williams argues that the bankruptcy judge had no jurisdiction
23 to rule on his own recusal because, pursuant to Central District
24 General Order 224, § 4.0, a judge who is the subject of a recusal
25 motion is required to refer it to the Clerk for assignment to
26 another judge. As it read at the time the order on appeal was
27 entered, the General Order stated that "[i]f a motion is made to
28 disqualify a judge in any civil case assigned to the judge

1 pursuant to this General Order, the motion shall be referred to
2 the Clerk for assignment to another judge in the same manner as
3 cases are assigned pursuant to this General Order.”

4 However, by its own terms, Central District General Order
5 224, as it read at the time the order on appeal was entered,
6 applied only to district court cases, and was inapplicable to
7 bankruptcy court cases. Section 1.0 of Central District General
8 Order 224 stated “all cases of a civil nature shall be assigned to
9 the individual calendars of the judges of this Court pursuant to
10 this General Order.” Section 1.6 specifically exempted bankruptcy
11 cases from the scope of Central District General Order 224 until
12 the bankruptcy matter was assigned to a district court judge. The
13 Order stated at section 1.6, “[n]o bankruptcy case, matter or
14 proceeding shall be deemed to be a ‘case of a civil nature,’ as
15 that term is used in Section 1.0, until the time for the
16 assignment of such case to the individual calendar of a district
17 court judge as provided in Section 16.1 of this General Order.”

18 Since at the time of Williams’ recusal motion, this matter
19 was a bankruptcy case pending before the bankruptcy court, it was
20 not subject to Central District General Order 224. Therefore, the
21 bankruptcy judge assigned to the case was not precluded from
22 ruling upon Williams’ recusal motion.

23 Bankruptcy judges are subject to recusal solely pursuant to
24 28 U.S.C. § 455, which states in pertinent part:

25 (a) any justice, judge, or magistrate judge of the
26 United States shall disqualify himself in any proceeding
27 in which his impartiality might reasonably be
28 questioned.

27 (b) He shall also disqualify himself in the following
28 circumstances:

1 (1) Where he has a personal bias or prejudice
2 concerning a party, or personal knowledge of
3 disputed evidentiary facts concerning the
4 proceeding[.]

5 In reviewing a bankruptcy judge's denial of a recusal motion
6 under § 455 for abuse of discretion, the test is "whether a
7 reasonable person with knowledge of all the facts would conclude
8 that the judge's impartiality might reasonably be questioned."
9 United States v. Studley, 783 F.2d 934, 939 (9th Cir. 1986). The
10 recusal of a judge is warranted in only the rarest of
11 circumstances where a judge's actions "display a clear inability
12 to render a fair judgment." Liteky v. United States, 510 U.S.
13 540, 551 (1994).

14 Williams argues that the bankruptcy judge assigned to this
15 case should have recused himself because of allegedly repeated
16 acts in excess of jurisdiction, which established the appearance
17 of a lack of impartiality needed to support recusal. However,
18 bias or lack of impartiality cannot be challenged by a litigant on
19 the basis that the litigant disagrees with the bankruptcy judge's
20 rulings or orders. Id. at 555. "Judges are known to make
21 procedural and even substantive errors on occasion [but such]
22 errors here would be the basis for appeal, not recusal." Focus
23 Media, Inc. v. Nat'l Broad. Co., Inc. (In re Focus Media, Inc.),
24 378 F.3d 916, 930 (9th Cir. 2004). Therefore, even if Williams
25 was correct that the bankruptcy judge made mistakes in his
26 rulings, his option was to appeal the judge's decisions, not to
27 seek recusal. Therefore, we hold that the bankruptcy judge did
28 not abuse his discretion in denying Williams' motion to recuse.

1
2 **5. Whether the panel may review the state court's order**
3 **striking Williams' cross-complaint.**

4 Williams filed a second amended notice of appeal concerning
5 the state court's order granting Levi's motion to strike Williams'
6 cross-complaint. However, the panel's jurisdiction is limited to
7 appeals of decisions of bankruptcy courts, 28 U.S.C. § 158, and
8 Williams' brief cites no authority to the contrary. Since
9 Williams' second amended notice of appeal concerns a state court
10 ruling, the panel has no jurisdiction to review it. The proper
11 venue to address state court rulings is within the state appellate
12 system.

13
14 **6. Whether the state court erred in striking Williams' cross**
15 **complaint.**

16 As noted above, because the panel lacks jurisdiction to hear
17 appeals of state court rulings, the panel cannot decide an appeal
18 as to whether the state court erred in striking Williams' cross-
19 complaint.

20
21 **CONCLUSION**

22
23 The bankruptcy court's order granting Levi's motion to remand
24 is an appealable order. Because the bankruptcy court did not err
25 in granting this motion, we AFFIRM on this issue. Second, the
26 bankruptcy court's order denying Williams' motion to recuse is an
27 appealable order by virtue of the merger doctrine. Because the
28 bankruptcy court did not abuse its discretion in denying this

1 motion, we also AFFIRM on this issue. Finally, the panel lacks
2 jurisdiction to review the state court's ruling striking Williams'
3 cross-complaint. That portion of Williams' appeal is therefore
4 DISMISSED.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28