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

NOT FOR PUBLICATION

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UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:)	BAP No. CC-12-1238-PaDKi
)	
ROBERT LEWIN,)	Bankr. No. 10-13047
)	
Debtor.)	Adv. No. 10-1427
)	
_____)	
PETER SZANTO,)	
)	
Appellant,)	
)	
v.)	MEMORANDUM¹
)	
ROBERT LEWIN,)	
)	
Appellee.)	
_____)	

Argued and Submitted on June 20, 2013
at Pasadena, California

Filed - July 3, 2013

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

Honorable Deborah Saltzman, U.S. Bankruptcy Judge, Presiding

Appearances: Appellant Peter Szanto and Appellee Robert Lewin
argued pro se.

Before: PAPPAS, DUNN and KIRSCHER, 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.

1 Alleged creditor Peter Szanto ("Szanto") appeals the decision
2 of the bankruptcy court dismissing his adversary complaint
3 against chapter 7² debtor Robert Lewin ("Lewin") for lack of
4 standing. We VACATE and REMAND.

5 **FACTS**

6 Szanto is a licensed real estate broker in California. Lewin
7 is a member of the California bar.

8 The dispute between Szanto and Lewin began in 2003 and
9 eventually spawned several civil actions and probate proceedings.

10 We have inadequate information in the record to detail these
11 matters, except that they appear to implicate disputes between
12 Lewin and Szanto, and other members of Szanto's family, including
13 his late son Phillip, over family trust and estate matters. Lewin
14 was seemingly involved in these disputes as a friend and attorney
15 of Phillip.

16 Of direct interest in this appeal is a lawsuit filed in state
17 court on May 14, 2008, Szanto v. Lewin, no. 499366 (Superior Court
18 Riverside County) (the "Riverside Action"). Szanto's complaint
19 against Lewin alleged two causes of action: (1) That Lewin
20 negligently interfered with Szanto's business plans for his son.
21 More specifically, Szanto alleged that he had trained his son to
22 be his partner in his real estate brokerage business, and although
23 Phillip had qualified as a broker, he was spending increasing
24 amounts of time in Lewin's company. (2) For intentional torts, and
25 in particular, that Lewin removed mail from Szanto's mailbox; that

26
27 ² Unless otherwise indicated, all chapter, section and rule
28 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The
Federal Rules of Civil Procedure are referred to as "Civil Rules."

1 Lewin made untrue statements to San Mateo Protective Services so
2 as to obtain personal information about Szanto; that Lewin
3 intentionally trespassed in Szanto's home with intent to commit a
4 felony; that Lewin intentionally published untrue statements about
5 Szanto; and that Lewin represented to Phillip that Lewin loved
6 Phillip more than his father, Szanto. When Lewin did not respond
7 to Szanto's complaint, a clerk's default was entered against Lewin
8 in the Riverside Action on May 11, 2009. However, no default
9 judgment was entered by the state court.

10 Lewin filed a chapter 13 petition on February 3, 2010.
11 Neither his schedules nor his statement of financial affairs
12 mentioned the pending legal proceedings with Szanto. Lewin
13 converted the case to one under chapter 7 on March 24, 2010.

14 On May 17, 2010, Szanto filed a motion for relief from the
15 automatic stay in the bankruptcy case seeking permission to
16 continue his prosecution of the Riverside Action. Lewin responded
17 on June 4, 2010, arguing that Szanto's claims in the Riverside
18 Action were frivolous and a sham, and noting that a judgment had
19 not been entered. The bankruptcy court held a hearing on Szanto's
20 motion on June 17, 2010, with Szanto and Lewin both appearing pro
21 se. After apparently reciting its oral findings and conclusions,
22 the court granted the motion authorizing Szanto "to proceed to
23 judgment in the state court"; a transcript of this hearing is
24 neither included in the excerpts nor on the bankruptcy court's
25 docket. Lewin did not appeal this order.

26 Szanto then commenced the adversary proceeding involved in
27 this appeal on July 6, 2010. The complaint somewhat tracked the
28 allegations made in the state court complaint. Szanto's first

1 claim for relief in the complaint sought an exception to discharge
2 under § 523(a)(6) for the debts arising from the various
3 intentional torts Lewin allegedly committed as asserted in the
4 Riverside Action. The second claim for relief, read liberally,
5 requests that Lewin be denied a discharge under § 727(a)(2)
6 because Lewin had allegedly concealed assets, including a gold
7 Rolex watch and a gold Montblanc pen, and because Lewin's
8 statement in his schedules that a valuable stamp collection was
9 worth only \$2500 was false. Szanto's third claim alleged that
10 Lewin's bankruptcy was filed in bad faith, to avoid a possible
11 judgment in the Riverside Action. There is no specific relief
12 requested concerning this claim.

13 Lewin filed an answer to the complaint on August 18, 2010,
14 asserting, inter alia, that: (1) Szanto was not a creditor because
15 he held no viable claim against Lewin; (2) no judgment had been
16 entered in the Riverside Action; (3) Lewin, as attorney for
17 Phillip, was immune from prosecution for the actions he took in
18 representing his client; and (4) Szanto is an adjudged vexatious
19 litigant.

20 Szanto sought to amend his complaint on November 24, 2010, to
21 add claims for denial of Lewin's discharge under § 727(a)(3) and
22 (4). He also sought to compel discovery responses from Lewin and
23 requested an award of discovery sanctions, an order rejecting the
24 U.S. Trustee's report filed in Lewin's case, and requiring the
25 U.S. Trustee to reexamine Lewin's schedules and reevaluate Lewin's
26 eligibility for bankruptcy relief under the means test. Lewin
27 responded to Szanto's request to amend the complaint on
28 December 16, 2010, again asserting that Szanto was not a creditor

1 and was a vexatious litigant. The bankruptcy court held a hearing
2 on Szanto's various motions on December 20, 2010. There is no
3 transcript in the record or docket, but the court's docket entry
4 indicates that Szanto's motions were denied. On April 12, 2011,
5 the bankruptcy court entered an order denying all of Szanto's
6 motions.

7 The bankruptcy court then, sua sponte, on May 10, 2011,
8 entered an Order to Show Cause ("OSC 1") directing Lewin to appear
9 and explain why his answer should not be stricken and default
10 entered against him for his failure to defend. Szanto moved for
11 summary judgment on May 12, 2011, arguing that there were no
12 issues of material fact to be determined and judgment should be
13 entered in the adversary in his favor as a matter of law.

14 Lewin and Szanto exchanged a series of replies and objections
15 to OSC 1 and the summary judgment motion, generally arguing about
16 Szanto's creditor status and Lewin's assertions that Szanto's
17 claims were without merit and whether unresolved material
18 questions of fact remained.

19 The bankruptcy court held a hearing on Szanto's motion for
20 summary judgment on June 24, 2011. There is no transcript of the
21 hearing in the record or docket. However, the court's minute
22 entry on the docket states:

23 DENIED. Tentative Ruling. This is the Plaintiff's
24 motion for summary judgment. It is the moving party's
25 burden to establish grounds for summary judgment -
26 specifically, that the pleadings, the discovery and
27 disclosure materials on file, and any affidavits show
28 that there is no genuine issue as to any material fact
and that the movant is entitled to judgment as a matter
of law. Fed. R. Civ. P. 56(c)(2); see Celotex Corp. v.
Catrett, 477 U.S. 317, 322 (1986); see also
In re Mannie, 258 B.R. 440, 443 (Bankr. N.D. Cal. 2001).
Here the Plaintiff has filed an adversary proceeding to

1 determine that Defendant's debt is not dischargeable
2 under section 523(a)(6) of the Bankruptcy Code.
3 However, the Plaintiff falls far short of meeting its
4 burden. Nowhere does Plaintiff specify the exact debt
5 or claim he seeks to have determined nondischargeable,
6 let alone list a specific damage figure amount. The
7 parties are engaged in litigation (although the
8 Plaintiff has agreed to dismiss certain actions) and
9 there is no evidence of any judgment or default judgment
10 in any court. There are still actions pending in state
11 court. At this stage, there are genuine issues of
12 material fact yet to be determined including the
13 existence and amount of the debt at issue.

14 As can be seen, the bankruptcy court's docket entry identifies
15 this notation as a "tentative ruling," but places the word DENIED
16 in caps. There is no indication in the docket that a formal order
17 was entered denying the motion for summary judgment.

18 The bankruptcy court, again acting sua sponte, on December 9,
19 2011, entered another Order to Show Cause to Lewin to appear and
20 explain why the court should not strike his answer and enter
21 default ("OSC 2"). Lewin and Szanto again exchanged responses,
22 with Szanto suggesting that Lewin failed to attend hearings, and
23 Lewin answering that he had attended all noticed court proceedings
24 and hearings.

25 There is no indication in the docket that the bankruptcy
26 court ever heard or ruled on OSC 2. Instead, on February 22,
27 2012, the court entered yet another sua sponte Order to Show Cause
28 ("OSC 3"), but this time it was directed to Szanto and commanded
him to appear at a hearing and explain why the adversary
proceeding should not be dismissed because Szanto is not a
creditor and thus lacks standing to prosecute the action. In
OSC 3, the bankruptcy court explained that,

The Bankruptcy Code defines a "creditor" to be only
those entities holding a "claim against the debtor that
arose at the time of or before the order for

1 relief. . . . 11 U.S.C. § 101(10)(A). Further, the
2 Bankruptcy Code defines "claim" to mean a right to
3 payment" (see 11 U.S.C. § 101(5)(A) that the U.S.
4 Supreme Court characterizes as "nothing more nor less
5 than an enforceable obligation." Penna. Dep't of Pub.
6 Welfare v. Davenport, 495 U.S. 552, 559 (1990)(emphasis
7 added); Johnson v. Home State Bank, 501 U.S. 78, 83-84
8 (1991). [Szanto] must appear and show cause and explain
9 how entry of a default without the corresponding default
10 obligation under California law sufficiently constitutes
11 a legally "enforceable obligation" as contemplated by
12 the U.S. Supreme Court in [Davenport].

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Meanwhile, in the Riverside Action, in February 2012, Lewin had been successful in setting aside the default that had been entered against him; we do not have any information in the record or docket why the state court did so. We know, however, that Szanto immediately filed a First Amended Complaint in the Riverside Action on February 27, 2012, wherein he reasserted the causes of action against Lewin for tortious interference with business advantage, alienation of affection, identify theft, conversion, invasion of privacy, and wrongful death.

A default was again entered in the Riverside Action against Lewin on March 29, 2012. Lewin again moved to set aside the default on April 11, 2012, asserting, inter alia, that he had appeared in the Riverside Action on February 24, 2012, that Szanto's proof of service of the First Amended Complaint was a "lie and sham," and that, in any case, Cal. Code Civ. Proc. § 739 provides that a default must be set aside when an attorney presents a declaration that his failure to respond was a result of mistake. Lewin asserts that he filed a cross-complaint in the Riverside Action, but we have no information in the record concerning that cross-complaint.

Szanto then removed the complaint and cross-complaint to the

1 U.S. District Court for the Central District of California on
2 April 11, 2012, asserting jurisdiction based on diversity of
3 citizenship. Both Lewin and Szanto report that the District Court
4 remanded the Riverside Action to the state court. We have no
5 further information on the status of the Riverside Action in the
6 record or docket.

7 The bankruptcy court held a hearing on OSC 3, the order to
8 Szanto to explain why the adversary should not be dismissed, on
9 May 10, 2012. After hearing from Szanto and Lewin, who both
10 appeared without counsel, the court announced its decision on the
11 record:

12 Any creditor may file a complaint to obtain a
13 determination of the dischargeability of debt. . . . A
14 creditor is any entity that has a claim against the
15 debtor that arose at the time or before the order for
16 relief. . . . The definition of claims [is] found in
17 Section 101(5) . . . a right to payment whether or not
18 reduced to judgment, liquidated, unliquidated, fixed,
19 contingent, matured, unmatured, disputed, undisputed,
20 legal, equitable, secured or unsecured, or a right to an
21 equitable remedy. . . . Pa. Dep't of Pub. Welfare v.
22 Davenport . . . states that a right to payment is
23 nothing more nor less than an enforceable obligation.
24 We've got substantial guidance from all the case law
25 that a claim is to be defined broadly because the
26 Bankruptcy Code contemplates that all of the debtor's
27 legal obligations ought to be dealt with within the
28 context of the bankruptcy case. . . . [U]nder California
law, does the Plaintiff have an enforceable obligation
against the Defendant. . . . The Plaintiff has argued
. . . there is still this entry of default, and that
creates the right to payment that gives the Plaintiff
standing in this case. I don't agree that that's a
correct statement of the law. . . . While we have an
entry of default under California law, that simply
doesn't establish a legally enforceable
obligation. . . . So, for that reason, I am going to
enter an order dismissing this cause of action.

26 Hr'g Tr. 24:11-27:11, May 10, 2012.

27 The bankruptcy court entered an order dismissing the
28

1 adversary proceeding on May 15, 2012.³ Szanto filed a timely
2 appeal on May 29, 2012.

3 **JURISDICTION**

4 The bankruptcy court had jurisdiction under 28 U.S.C. §§ 1334
5 and 157(b)(2)(A) and (I). We have jurisdiction under 28 U.S.C.
6 § 158.

7 **ISSUE**

8 Whether the bankruptcy court erred in dismissing Szanto's
9 adversary proceeding for lack of standing.

10 **STANDARD OF REVIEW**

11 A trial court's sua sponte dismissal of an action for lack of
12 standing is reviewed de novo. Bernhardt v. Cnty. of Los Angeles,
13 279 F.3d 862, 867 (9th Cir. 2002).

14 **DISCUSSION**

15 Rule 4007(a) provides that "a debtor or any creditor may file
16 a complaint to obtain a determination of the dischargeability of
17 any debt." See also § 523(c) (providing that the bankruptcy court
18 may, "upon request of a creditor to whom such debt is owed"
19 determine whether a debt is excepted from discharge under
20 § 523(a)(2), (4), or (6)). Further, § 727(c)(1) provides that
21 "the trustee, a creditor, or the United States trustee may object
22 to the granting of a discharge under subsection (a) of this
23 title." Szanto is not the debtor, trustee or United States
24 trustee in this case, and thus may only prosecute a complaint for
25 exception to discharge, or for denial of Lewin's discharge, if he

26 _____
27 ³ Szanto filed a motion to vacate the dismissal on May 22,
28 2012. The bankruptcy court denied the motion in an order entered
on May 23, 2012.

1 is a "creditor."

2 As it explained at the May 10, 2013 hearing on OSC 3, the
3 bankruptcy court dismissed Szanto's complaint because he was not a
4 creditor and therefore lacked standing to pursue this action for
5 an exception to discharge. The case law instructs us that we are
6 to review sua sponte dismissals for lack of standing as if raised
7 in a motion to dismiss under Civil Rule 12(b)(6), made applicable
8 in bankruptcy adversary proceedings by Rule 7012, and that we must
9 accept all factual allegations of the complaint as true and draw
10 all reasonable inferences in favor of Szanto. Jewel v. Nat'l Sec.
11 Agency, 673 F.3d 902, 907 (9th Cir. 2011).

12 Although perhaps poorly drafted, Szanto's complaint appears
13 to seek the following relief: (1) an exception to discharge of
14 his claims raised in his state court action under § 523(a)(6);
15 (2) a denial of discharge under § 727(a) for concealment of
16 assets; and (3) denial of discharge for Lewin's bad faith in
17 filing the bankruptcy case. Our review of the facial allegations
18 in the complaint is guided by instructions from the Supreme Court.
19 "[D]etailed factual allegations" are not required. Bell Atl.
20 Corp. v. Twombly, 550 U.S. 544, 555 (2007). But,

21 a complaint must contain sufficient factual matter,
22 accepted as true, to "state a claim to relief that is
23 plausible on its face." [Twombly, 550 U.S. at 570]. A
24 claim has facial plausibility when the plaintiff pleads
factual content that allows the court to draw the
reasonable inference that the defendant is liable for
the misconduct alleged. [Twombly, 550 U.S. at 556].

25 Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).⁴

26

27 ⁴ It appears that the bankruptcy court only considered
28 Szanto's complaint as seeking exception to discharge for his

(continued...)

1 A review of Szanto's complaint shows that he pled a claim for
2 exception to discharge under § 523(a)(6) for intentional torts he
3 had asserted in a state court lawsuit (tortious interference with
4 business advantage, theft of mail, deprivation of civil rights,
5 alienation of affection, abuse of judicial process, malicious
6 prosecution, barratry, defamation, subornation of fraudulent real
7 property transfer and intentional infliction of emotional
8 distress). It is not challenged that intentional torts may form
9 the basis for an exception to discharge under § 523(a)(6), yet
10 there still must be proof of willful and malicious injury.
11 Kawaauhau v. Geiger, 523 U.S. 57, 63 (1998).⁵ However, the
12 bankruptcy court did not examine the claims in the complaint for
13 their plausibility. Rather, the court based its dismissal on its
14 conclusion that Szanto lacked standing. See Chubb Custom Ins. Co.
15 v. Space Sys., 710 F.3d 946, 952 (9th Cir. 2013) (holding that a
16 trial court may dismiss a claim under Civil Rule 12(b)(6) where a
17 complaint is not plausible because the party bringing the

18 _____
19 ⁴(...continued)
20 claims. Of course, Szanto's complaint also contained a claim for
21 denial of discharge under § 727(a). To the extent that Szanto has
22 presented in the complaint factual allegations that Lewin failed
23 to properly account for valuable assets, i.e., a gold Rolex watch,
24 a gold Montblanc pen, and an undervalued stamp collection,
25 although inartfully pled, it would appear Szanto has met the
26 minimum threshold factual presentation for facial plausibility of
27 a claim for denial of discharge. Iqbal, 556 U.S. at 663.

24 ⁵ At least as to one of those asserted torts, theft of mail
25 (which we interpret to implicate the tort of conversion, an
26 intentional tort under California law), Szanto asserted in the
27 complaint as fact known to him personally that his mail had been
28 stolen from his residence, that he had reported it to the
U.S. postal inspectors, and that Lewin had returned part of it.
Although a weak argument, it was sufficient to meet the minimum
threshold factual presentation for facial plausibility of at least
one claim in the complaint. Iqbal, 556 U.S. at 663.

1 complaint does not have standing.).

2 As it explained, the bankruptcy court's decision was premised
3 on the interplay of several terms in the Bankruptcy Code and one
4 Supreme Court decision. The court's reasoning, as set forth in
5 OSC 3, appears to be as follows: The Code provides that a
6 creditor is any "entity that has a claim against the debtor that
7 arose at the time of or before the order for relief."
8 § 101(10)(A). A claim, in turn, is defined as a "right to
9 payment, whether or not reduced to judgment, liquidated,
10 unliquidated, fixed, contingent, matured, unmatured, disputed,
11 undisputed, legal, equitable, secured, or unsecured[.]"
12 § 101(5)(A). The Supreme Court has observed that a "right to
13 payment is "nothing more nor less than an enforceable obligation."
14 Pa. Dep't of Pub. Welfare v. Davenport, 495 U.S. 552, 558 (1990).
15 Since no judgment had been entered in Szanto's favor against Lewin
16 in the Riverside Action, Lewin did not have an enforceable
17 obligation under California law to pay Szanto. Therefore, Szanto
18 is not a creditor in Lewin's bankruptcy case and lacks standing to
19 prosecute the adversary proceeding.

20 However, the bankruptcy court's analysis that the Supreme
21 Court in Davenport equated the "enforceable obligation" definition
22 for a claim with the entry of a judgment in favor of the creditor
23 is shaky. The cases interpreting Davenport we have located
24 instead hold that the term "enforceable obligation" refers to a
25 potentially enforceable obligation - not necessarily one reduced
26 to judgment, but rather one capable of being enforced:

27 There is no claim against a debtor's bankruptcy estate
28 without a "right to payment," however uncertain, and a
 claim must ultimately find some foundation in an

1 obligation that a creditor – at some point in time and
2 under some conditions – could enforce against a debtor.
3 Such right need not be immediately enforceable at the
4 time of filing for the right to constitute a claim. A
5 claim may be contingent or unmatured yet remain a claim
6 for purposes of bankruptcy law. At the time of a
7 bankruptcy petition, however, there must be a right at
8 least potentially enforceable by a creditor.

6 In re Spencer, 457 B.R. 601, 606 (E.D. Mich. 2011);

7 In re Schechter, Bankr. LEXIS 3796 at *13 (Bankr. E.D. Va. 2012)
8 (same).

9 That the Supreme Court meant that the obligation upon which a
10 claim is founded must be enforceable at some point in time and
11 under some circumstances is evidenced by the context in Davenport.

12 Our construction of the term "debt" is guided by the
13 fundamental canon that statutory interpretation begins
14 with the language of the statute itself. Landreth
15 Timber Co. v. Landreth, 471 U.S. 681, 685 (1985).
16 Section 101(11) of the Bankruptcy Code defines "debt" as
17 a "liability on a claim." This definition reveals
18 Congress' intent that the meanings of "debt" and "claim"
19 be coextensive. See also H.R. Rep. No. 95-595, p. 310
20 (1977); S. Rep. No. 95-989, p. 23 (1978). Thus, the
21 meaning of "claim" is crucial to our analysis. A
22 "claim" is a "right to payment, whether or not such
23 right is reduced to judgment, liquidated, unliquidated,
24 fixed, contingent, matured, unmatured, disputed,
25 undisputed, legal, equitable, secured, or unsecured."
26 11 U.S.C. § 101(4)(A). . . . As is apparent, Congress
27 chose expansive language in both definitions relevant to
28 this case. For example, to the extent the phrase "right
to payment" is modified in the statute, the modifying
language ("whether or not such right is . . .") reflects
Congress' broad rather than restrictive view of the
class of obligations that qualify as a "claim" giving
rise to a "debt." See also H.R. Rep. No. 95-595, supra,
at 309 (describing definition of "claim" as "broadest
possible" and noting that Code "contemplates that all
legal obligations of the debtor . . . will be able to be
dealt with in the bankruptcy case"); accord, S. Rep.
No. 95-989, supra, at 22.

26 Davenport, 495 U.S. at 557-58. As can be seen, in Davenport,
27 the Court was explicating its long-held view that Congress meant
28 the broadest possible interpretation of "claim" in the Code, that

1 a claim need not be reduced to judgment, and that a claim could
2 include, as explicitly provided in the statute, contingent,
3 unliquidated, disputed claims – claims which by their definition
4 would not be reduced to judgment or necessarily presently
5 enforceable.

6 In the Code, “[t]he term ‘claim’ means – right to payment
7 whether or not such right is reduced to a judgment, liquidated,
8 unliquidated, fixed, contingent, mature, unmatured, disputed,
9 undisputed, legal, equitable, secured or unsecured”

10 § 101(5)(A). Obviously, Szanto’s intentional tort claims asserted
11 in state court against Lewin are disputed and unliquidated; they
12 are also contingent. A claim is “contingent” when the debtor’s
13 legal duty to pay it does not come into existence until triggered
14 by the occurrence of a future event. Imagine Fulfillment Servs.,
15 LLC v. DC Media Capital, LLC (In re Imagine Fulfillment Servs.,
16 LLC), 489 B.R. 136, 148 (Bankr. C.D. Cal. 2013); Lubit v. Chase
17 (In re Chase), 372 B.R. 125, 132 (Bankr. S.D.N.Y. 2007) (same).
18 The Ninth Circuit has held that intentional tort claims are
19 contingent. Engquist v. Or. Dep’t of Agric., 478 F.3d 985, 1003
20 (9th Cir. 2007) (tort claims are contingent “by their nature”);
21 In re Consol. U.S. Atmospheric Testing Litig., 820 F.2d 982, 989
22 (9th Cir. 1987) (tort claims are contingent because their value is
23 inchoate until reduced to judgment).

24 Clearly, then, while Szanto did not have the benefit of a
25 state court judgment adjudging Lewin liable to him for specific
26 damages on his tort claims, they were no less “claims” for
27 purposes of the bankruptcy case. The bankruptcy court’s apparent
28 requirement that a “right to payment” on account of an intentional

1 tort obligation requires a judgment in order to constitute an
2 enforceable obligation is inconsistent with Bankruptcy Code
3 provisions indicating a judgment is not a condition of a claim.
4 United States v. Galletti, 541 U.S. 114, 124 n.5 (2004) (citing
5 § 101(5)(A) for the proposition that a claim is allowable in
6 bankruptcy "whether or not such right is reduced to judgment.").⁶
7 Courts may not give effect to one provision of a statute that
8 renders another provision of that statute superfluous. New
9 Process Steel v. NLRB, 130 S. Ct. 2635, 2644 (2010). In this
10 case, the bankruptcy court's interpretation of the "enforceable
11 obligation" language in Davenport is at odds with the actual text
12 of the Bankruptcy Code recognizing that Szanto may hold a claim in
13 the bankruptcy case "whether or not such right is reduced to
14 judgment, liquidated, unliquidated, fixed, contingent, matured,
15 unmatured, disputed, undisputed, legal, equitable, secured or
16 unsecured[.]" § 101(5)(A). On the basis of the allegations in
17 his complaint, Szanto was a creditor (i.e., an entity that held a
18 claim against Lewin that arose before the bankruptcy) and, as
19 such, he had standing to pursue an exception to discharge for
20 purposes of Rule 4007(a). Since Szanto was a creditor of Lewin's
21 bankruptcy estate, he also had standing under § 727(c) to assert a
22 claim for denial of Lewin's discharge.

23 CONCLUSION

24 Szanto is a creditor in Lewin's bankruptcy case, and the
25 bankruptcy court therefore erred in dismissing the complaint on

26
27 ⁶ It also seems inconsistent that, on the one hand, the
28 bankruptcy court would grant Szanto stay relief to pursue his
state court claims against Lewin and then, later, rule that Szanto
was not a creditor because he held no enforceable obligation.

1 the grounds that Szanto lacked standing because he was not a
2 creditor. We therefore VACATE the bankruptcy court's order
3 dismissing Szanto's complaint with prejudice and REMAND this
4 matter for further proceedings.⁷

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27 ⁷ On remand, the bankruptcy court may consider a stay of
28 this adversary proceeding pending resolution of the causes of
action in the state court.