NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL

OF THE NINTH CIRCUIT

In re:	BAP No. CC-10-1139-HKiMk
HUI WANG,	Bk. No. 09-19641-ER
Debtor.	Adv. No. 09-01865-ER
HUI WANG,	
Appellant,	
v.	**M E M O R A N D U M**[1]
JUERGEN VOTTELER; HEIDI KURTZ, Chapter 7 Trustee; UNITED STATES TRUSTEE,	
Appellees.	

Argued and Submitted on September 23, 2010
at Pasadena, California

Filed - November 10, 2010

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

Honorable Ernest M. Robles, Bankruptcy Judge, Presiding

Appearances: Keith William Berglund, The Berglund Group, argued for Appellant Hui Wang
Todd A. Picker, Law Offices of Todd Picker, argued for Appellee Juergun Votteler

Before: HOLLOWELL, KIRSCHER, and MARKELL, Bankruptcy Judges.

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

The bankruptcy court found that cause existed to grant creditor Juergen Votteler (Votteler) relief from the automatic stay to permit the debtor's appeal of a default judgment to proceed in state court. The bankruptcy court determined that a resolution of that appeal in favor of Votteler could result in the efficient cost-effective resolution of an adversary proceeding filed by him against the debtor. We **AFFIRM**.

I. FACTS

The debtor, Hui Wang (Wang) immigrated from China to the United States in 2000. She met Robert Tringham (Tringham) in 2003, and became his live-in girlfriend/fiancé until October 2008. Tringham controlled a company called Finbar Securities Corporation (Finbar) and held himself out as a successful, licensed, international securities broker. Wang worked with Tringham in his business endeavors, although she contends she was not materially involved with any acquisition of investor funds or involved in the management of Finbar's business activities.

Votteler met Tringham sometime in early 2006. In exchange for Tringham and Finbar's securities investment services, Votteler transferred almost $3 million to Finbar as part of a Wealth Management Agreement. However, according to Votteler, he subsequently realized that Tringham's representation that he was a stock broker was false and that the Wealth Management Agreement was part of a fraudulent scheme.

On July 11, 2007, Votteler filed a complaint against Tringham and Finbar in California state court alleging common law fraud and conversion (the State Court Complaint). Votteler alleged that Tringham falsely represented his position as a stock

broker or securities investor in order to deceive Votteler. Votteler alleged that Tringham and/or his agents took Votteler's money, hid it in various bank accounts and shell companies and that Tringham then converted the money for his own use. The State Court Complaint named John Doe defendants who allegedly maintained and kept records for Tringham, acted as his agent, with knowledge and in furtherance of Tringham's fraudulent activities, and/or controlled companies that were alter-egos of Tringham, which were knowingly used to perpetuate the fraudulent scheme.

On September 17, 2007, Votteler amended the State Court Complaint to include Wang, aka "Cindy Tringham," as a named John Doe defendant. Votteler filed a proof of service with the state court indicating that Wang had been personally served on September 18, 2007.

On October 23, 2007, Votteler filed a Request for Entry of Default against Wang on the basis that Wang had not filed an answer to the State Court Complaint. The State Court granted the request on November 5, 2007 (the Default).

Wang asserted that she only became aware of the State Court Complaint on October 31, 2007, when Tringham told her about it. Thereafter, she hired counsel[2] to file an answer, which was accomplished on November 5, 2007, the same day the Default was entered.

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[2] Wang hired the same attorney who had been representing Tringham and Finbar on the State Court Complaint and who now represents her in the bankruptcy case but no longer represents Tringham.

The parties to the State Court Complaint entered into settlement negotiations and agreed to not file any substantive pleadings until at least December 2007. After settlement discussions unraveled, Wang filed, on January 22, 2008, a motion to vacate the Default and/or quash summons of the State Court Complaint. Wang contended that the State Court Complaint was not properly served and argued that the Default was the result of mistake, inadvertence, or excusable neglect, as well as a lack of due process under state and federal law.

On February 26, 2008, after a hearing was held on the matter, the state court denied Wang's motion to vacate the Default. A formal default judgment was entered on July 23, 2008, against the Debtor, Tringham and Finbar, (and other named John Doe defendants) jointly and severally, in the amount of $3,427,135.24 (the Default Judgment) "[u]pon consideration of plaintiff's evidence submitted . . . showing, inter alia, that plaintiff was defrauded, and his property converted by defendants. . . ."

On September 19, 2008, Wang appealed the Default Judgment (the Appeal), which was consolidated with the appeals by Tringham and Finbar of the Default Judgment. Wang alleged that the state court erred when it found that she was properly served and afforded due process. The opening brief to the Appeal was due sometime mid-May 2009.

At the same time the State Court Complaint was pending, the Securities and Exchange Commission (SEC) filed a complaint against Tringham and Finbar in California federal court. A receiver (Receiver) was appointed in that case and Tringham was

later indicted and convicted on criminal charges related to securities fraud.

Wang filed for chapter 7[3] relief on April 24, 2009. She listed Votteler as a judgment creditor in the amount of $3.5 million on her schedules. Wang listed only two other creditors on her Schedule F, with combined claims in the amount of $2,701. Wang revised her Schedule F on May 18, 2009, to include a claim asserted by the Receiver in the amount of not less than $542,476.[4]

Just before filing bankruptcy, on April 13, 2009, the Debtor filed a motion in state court to bifurcate her Appeal from Tringham's and Finbar's. The motion was granted on June 4, 2009, and the appellate proceedings were stayed by the state court pending the resolution of Wang's bankruptcy case.

On July 20, 2009, Votteler filed a complaint alleging that the Default Judgment was nondischargeable under § 523(a)(2)(A) and (a)(6) (the Nondischargeability Complaint). Votteler made the same allegations as he did in the State Court Complaint -- that Tringham and Finbar, as part of a fraudulent scheme, defrauded him and converted his money. Votteler alleged that Wang

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[3] Unless otherwise indicated, all chapter and section references in the text are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.

[4] The claim is based on the Receiver's finding that "Tringham made payments totaling $474,859 to his ex-wife, Hui Wang." The Receiver's report is part of Appellee's June 28, 2010 Request for Judicial Notice (RJN). Wang has opposed the RJN. We DENY the RJN because the Receiver's report does not provide information that is material to Votteler's arguments.

knowingly helped Tringham in his fraudulent scheme by funneling money into a company she controlled with Tringham and by transferring money from various bank accounts held by Tringham. Votteler alleged Wang also converted his money for her own use. As a result, Votteler contended the Default Judgment was nondischargeable due to false pretenses, false representation, or actual fraud under § 523(a)(2)(A), and willful and malicious injury under § 523(a)(6).

On August 21, 2009, Wang filed a motion to dismiss the Nondischargeability Complaint on the basis that it did not plead fraud with the specificity required under Fed. R. Civ. P. 9. Votteler amended the Nondischargeability Complaint on November 6, 2009. The amended complaint alleged that Wang was a knowing and active participant in Tringham's fraudulent scheme, knew about his misrepresentations, opened bank accounts to hide stolen money, and used the money for her personal benefit. These allegations tracked the allegations made against the John Doe defendants in the State Court Complaint as both complaints alleged that Wang acted with knowledge and in furtherance of Tringham's fraudulent scheme by keeping false records or by controlling companies that funneled money from investors for Tringham's own use.

On November 17, 2009, the Debtor filed a second motion to dismiss the Nondischargeability Complaint (the Motion to Dismiss). Wang contended she was never involved in any material aspect of Tringham's business operations and that she "never had a chance to mount any defense" to the State Court Complaint. Wang asserted, without elaborating, that she had been "a victim

of Tringham's deceptions and fraudulent conduct as much, if not more, than any creditor of Tringham's estate."

On February 17, 2010, the bankruptcy court dismissed Votteler's § 523(a)(6) claim of willful and malicious injury because it found that the allegations contained in the Nondischargeability Complaint, even if true, did not establish that Wang committed any act with the intent to cause injury. However, the § 523(a)(2)(A) claim was not dismissed and trial on the Nondischargeability Complaint was set for September 2010.

On March 1, 2010, Votteler filed a motion for relief from the automatic stay (Stay Relief Motion) for cause under § 362(d)(1) on the grounds that Wang filed her bankruptcy case in bad faith and that it would serve judicial economy to allow the Appeal to proceed in state court. Votteler contended that the Nondischargeability Complaint could be easily resolved if the Appeal proceeded to conclusion because if the Default Judgment was affirmed, the ruling would be preclusive of the issue of whether Wang committed fraud under § 523(a)(2)(A).

On March 11, 2010, Wang filed an opposition to the Stay Relief Motion. In her opposition, she argued there was no cause to lift the stay. She asserted that because "she did not have a chance to defend" the allegations contained in the State Court Complaint, the Default Judgment did not constitute an actual finding of fraud that could be given preclusive effect to the issues raised in the Nondischargeability Complaint. She argued that the Appeal could take months to conclude and therefore, granting the stay relief would not result in a more expeditious

disposition of the Nondischargeability Complaint or save judicial resources.

The bankruptcy court held a hearing on the Stay Relief Motion on March 22, 2010. On April 8, 2010, the bankruptcy court entered a memorandum decision and order granting Votteler relief from the automatic stay to allow the Appeal to proceed in state court and to temporarily halt proceedings on the Nondischargeability Complaint until the Appeal was decided (the Stay Relief Order). The bankruptcy court found that it was in the interest of judicial economy to allow the Appeal to proceed. The Debtor timely appealed. Wang has since filed her opening brief with the state court on the Appeal.

II. JURISDICTION

The bankruptcy court had jurisdiction pursuant to 28 U.S.C. § 157(b)(2)(G). We briefly address our jurisdiction under 28 U.S.C. § 158.

We lack jurisdiction to hear a moot appeal. I.R.S. v. Pattullo (In re Pattullo), 271 F.3d 898, 900 (9th Cir. 2001). An appeal may become moot when events transpire such that the appellate court can grant no effective relief to the parties.[5] Id. at 901; Church of Scientology of Calif. v. United States, 506 U.S. 9, 12 (1992).

[5] This is considered "constitutional mootness" because it "derives from constitutional limitations on the federal court to adjudicate only actual cases and live controversies." Clear Channel Outdoor, Inc. v. Knupfer (In re PW, LLC), 391 B.R. 25, 33 (9th Cir. BAP 2008).

Wang has already filed her opening brief with the state court on the Appeal. It is not required that Wang file a reply brief or appear at oral argument. Therefore, the Appeal is now proceeding in state court. Nevertheless, the Stay Relief Order also temporarily halted litigation on the Nondischargeability Complaint until the Appeal concluded. Even though we can do nothing to stop the Appeal from proceeding, we could provide relief to Wang if we were to reverse the bankruptcy court's Stay Relief Order because the Nondischargeability Litigation would no longer be on hiatus and Wang could proceed to a trial on the merits. Therefore, because it is possible to provide relief, the appeal is not moot, and we have jurisdiction to decide the merits.[6]

III. ISSUE

Did the bankruptcy court abuse its discretion in granting Votteler relief from the automatic stay so that the Appeal could proceed in state court?

IV. STANDARDS OF REVIEW

We review a bankruptcy court's order granting relief from the automatic stay for an abuse of discretion. Arneson v. Farmers Ins. Exch. (In re Arneson), 282 B.R. 883, 887 (9th Cir. BAP 2002); Kronemyer v. Am. Contractors Indemn. Co. (In re Kronemyer), 405 B.R. 915, 919 (9th Cir. BAP 2009).

In determining whether the bankruptcy court abused its discretion, we first "determine de novo whether the [bankruptcy]

[6] Accordingly we DENY the Appellee's September 15, 2010 Motion to Dismiss for Lack of Jurisdiction.

court identified the correct legal rule to apply to the relief requested." United States v. Hinkson, 585 F.3d 1247, 1262 (9th Cir. 2009). If the bankruptcy court identified the correct legal rule, we then determine whether its "application of the correct legal standard [to the facts] was (1) illogical, (2) implausible, or (3) without support in inferences that may be drawn from the facts in the record." Id. (internal quotation marks omitted). Therefore, if the bankruptcy court did not identify the correct legal rule, or its application of the correct legal standard to the facts was illogical, implausible, or without support in inferences that may be drawn from the facts in the record, then the bankruptcy court has abused its discretion. Id.

V. DISCUSSION

Under § 362(d)(1), relief from the automatic stay may be granted "for cause." The party seeking relief must establish a prima facie case that cause exists for relief. Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.), 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004); Duvar Apt., Inc. v. Fed. Deposit Ins. Corp. (In re Duvar Apt., Inc.), 205 B.R. 196, 200 (9th Cir. BAP 1996). Once established, the burden shifts to the debtor to show that stay relief is unwarranted. Id.

Because "cause" is not defined by the Bankruptcy Code, what constitutes cause is decided on a case-by-case basis. MacDonald v. MacDonald (In re MacDonald), 755 F.2d 715, 717 (9th Cir. 1985); Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.), 912 F.2d 1162, 1166 (9th Cir. 1990). Courts in the Ninth Circuit have granted stay relief to permit the conclusion of

pending litigation in a nonbankruptcy forum when the litigation involves multiple parties or is ready for trial. See Id. at 1169. Courts have also considered whether permitting the conclusion of pending litigation is in the interest of judicial economy or within the expertise of a state court. In re MacDonald), 755 F.2d at 717.

Courts evaluate several non-exclusive factors to determine if cause exists to permit pending litigation to continue in another forum. In re Curtis, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984); In re Plumberex Specialty Prods., Inc., 311 B.R. at 559 (the Curtis Factors). These factors are:

1. Whether the relief will result in a partial or complete resolution of the issues;
2. The lack of any connection with or interference with the bankruptcy case;
3. Whether the foreign proceeding involves the debtor as a fiduciary;
4. Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
5. Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
6. Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
7. Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties;
8. Whether the judgment claim arising from the foreign action is subject to equitable subordination;
9. Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);

10. The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
11. Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
12. The impact of the stay and the "balance of hurt."

see also Sonnax Indus., Inc. v. Tri Component Prods. Corp. (In re Sonnax Indus., Inc.), 907 F.2d 1280, 1286 (2d Cir. 1990); Adelson v. Smith (In re Smith), 389 B.R. 902, 918-19 (Bankr. D. Nev. 2008).

Votteler contended that if the Appeal proceeded to a final judgment that affirmed the Default Judgment, it could be dispositive of the fraud claims in the Nondischargeability Complaint. Therefore, Votteler argued it would be in the interest of judicial economy to lift the stay to allow the Appeal to proceed. Votteler also asserted that the issues presented by the Appeal were best resolved by the state court and that proceeding in the state court would not prejudice Wang or the other creditors. Votteler argued that the overall balance of harms favored stay relief.

Wang contended that none of the Curtis Factors weighed in Votteler's favor. Wang repeated her contention that the merits of the State Court Complaint were never litigated or decided, and therefore, could not be used to preclude litigation of the Nondischargeability Complaint.

While the Curtis Factors are used to determine whether cause exists for stay relief, not all the factors may be relevant to the facts of a given case or afforded equal weight. In re Smith, 389 B.R. at 919; In re Kronemyer, 405 B.R. at 921. The

bankruptcy court identified and reviewed the Curtis Factors and determined that the "pivotal issue" was "whether proceeding with the state court action would resolve any issues for the bankruptcy court." Memorandum Decision at 5. Thus, the bankruptcy court analyzed whether, for purposes of finding cause to lift the stay, the resolution of the Appeal could assist in determining whether Votteler's claim was dischargeable. Because the bankruptcy court found that collateral estoppel[7] could potentially be used to resolve the Nondischargeability Complaint, it concluded "the balance of hurt, the interests of judicial economy, and the lack of prejudice to creditors" weighed in favor of stay relief. Id.

A. Resolution Of Issues/Judicial Economy

Votteler argued, and the bankruptcy court agreed, that stay relief could result in the efficient resolution of the Nondischargeability Complaint based on the principles of issue preclusion. However, Wang argued that because "no issues related to the substantive allegations of the [State Court Complaint] were ever litigated," issue preclusion could not be applied to the Nondischargeability Complaint. Appellant's Opening Br. at 13, 17; Reply at 5-8. Furthermore, Wang insists that because the Default Judgment was appealed, it was not a final decision for purposes of applying issue preclusion.

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[7] Collateral estoppel is more accurately expressed as issue preclusion, which includes the doctrines of direct estoppel and collateral estoppel to foreclose re-litigation of matters that have been previously litigated. Paine v. Griffen (In re Paine), 283 B.R. 33, 38-39 (9th Cir. BAP 2002) (citing Migra v. Warren City School Dist. Bd. of Educ., 465 U.S. 75, 77 n.1 (1984).

To be clear, the bankruptcy court did not determine that if the Default Judgment was affirmed it would necessarily preclude litigation of the Nondischargeability Complaint. Rather, the bankruptcy court used the issue preclusion analysis only to determine, pursuant to the Curtis Factors, whether stay relief might result in the partial or complete resolution of the issues in the Nondischargeability Complaint or whether stay relief would be in the interest of judicial economy by providing an expeditious and economical determination of litigation for the parties.

Issue preclusion prevents re-litigation of an issue previously decided in a prior judicial proceeding and applies to nondischargeability proceedings. Grogan v. Garner, 498 U.S. 279, 285 n.11 (1991); Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1245 (9th Cir. 2001). It is "intended to avoid inconsistent judgments and the related misadventures associated with giving a party a second bite at the apple." Lopez v. Emergency Serv. Restoration, Inc. (In re Lopez), 367 B.R. 99, 104 (9th Cir. BAP 2007).

Bankruptcy courts must apply state law to determine the preclusive effect of a state court judgment in a subsequent bankruptcy court proceeding. Gayden v. Nourbakhsh (In re Nourbakhsh), 67 F.3d 798, 800 (9th Cir. 1995); Newsom v. Moore (In re Moore), 186 B.R. 962, 968 (Bankr. N.D. Cal. 1995); 28 U.S.C. § 1738 (federal courts must give "full faith and credit" to state court judgments). In California, default judgments are entitled to full faith and credit and may be given preclusive effect. Carwin v. Healy (In re Healy), 2008 WL

2852871 *3 (Bankr. E.D. Cal. 2008); Bugna v. McArthur (In re Bugna), 33 F.3d 1054, 1057 (9th Cir. 1994); see also, Christopher Klein, et al., Principles of Preclusion and Estoppel in Bankruptcy Cases, 79 AM. BANKR. L. J. 839, 854 (2005) ("whether an issue necessary for entry of a default or consent judgment can be relitigated will depend on the court where the judgment was taken.").

Under California law, five requirements must be satisfied in order for issue preclusion to apply: (1) the issue to be precluded is identical to the issue in the former proceeding; (2) the issue was actually litigated in the former proceeding; (3) the issue was necessarily decided in the former proceeding; (4) the judgment in the former proceeding is a final judgment on the merits; and (5) the party against whom preclusion is sought must be the same as in the former proceeding. Lucido v. Superior Court, 51 Cal.3d 335, 341 (1990), cert. denied, 500 U.S. 920 (1991); Younie v. Gonya (In re Younie), 211 B.R. 367, 373 (9th Cir. BAP 1997).

Neither party disputed the presence of the first or fifth factors in their arguments to the bankruptcy court. The bankruptcy court analyzed the remaining factors and found that if the Default Judgment was affirmed, issue preclusion could be applied to partially or completely resolve the Non-dischargeability Complaint.

Wang argues for the first time on appeal that there was no identity of issues between the State Court Complaint and the Nondischargeability Complaint, which Wang asserted contained "invented new allegations" and a new theory of liability.

Appellant's Opening Br. at 13; Reply at 9. Generally, we do not address issues raised for the first time on appeal. O'Rourke v. Seaboard Sur. Co. (In re E.R. Fegert, Inc.), 887 F.2d 955, 957 (9th Cir. 1989). Nonetheless, we can easily dispense with the argument. The elements necessary to establish that a debt is nondischargeable under § 523(a)(2)(A), "mirror the elements of common law fraud." In re Younie, 211 B.R. at 373-74 (citing Am. Express Travel Related Servs. Co., Inc. v. Hashemi (In re Hashemi), 104 F.3d 1122, 1125 (9th Cir. 1996), as amended, cert. denied, 520 U.S. 1230 (1997)); In re Nourbakhsh, 67 F.3d at 800. Because the State Court Complaint alleged facts sufficient to support a claim based on common law fraud, it necessarily shared an identity with the § 523(a)(2)(A) allegations contained in the Nondischargeability Complaint.

Wang argues she was never given a chance to defend against the State Court Complaint. She contends that the reason she did not file a timely answer and the Default was entered was because she did not receive proper service of the State Court Complaint. The rationale behind finding that default judgments can be preclusive is that defendants who are served with a summons and complaint but fail to respond are presumed to admit all the facts pled in the complaint. Harmon v. Kobrin (In re Harmon), 250 F.3d 1240, 1247 (9th Cir. 2001). Certainly, if the state appeals court overturns the Default Judgment based on a lack of due process or improper service, the Default Judgment will have no preclusive effect. But default judgments are considered:

> conclusive to the issues tendered by the complaint as if it had been rendered after answer filed and trial

> had on the allegations denied by the answer . . . Such a judgment is res judicata as to all issues aptly pleaded in the complaint and defendant is estopped from denying in a subsequent action any allegations contained in the former complaint.

In re Moore 186 B.R. at 971 (citations omitted). Therefore, a default judgment can satisfy the "actually litigated" requirement of issue preclusion.

However, for a default judgment to be actually litigated, the material factual issues must have been both raised in the pleadings and necessary to uphold the default judgment. Id. at 971-72; In re Harmon, 250 F.3d at 1247.

The State Court Complaint alleged facts supporting Votteler's claims that Tringham, Finbar, and Wang committed common law fraud and conversion. In entering the Default Judgment, the state court expressly found that Votteler presented evidence demonstrating that the defendants defrauded him and converted his property. Thus, the factual issues of fraud were raised in the pleadings and were necessary to the Default Judgment. As a result, the State Court Complaint was "actually litigated" and necessarily decided. Id.; see In re Younie, 211 B.R. at 374-75.

Wang cites to Schneiderman v. Bogdanovich (In re Bogdanovich), 292 F.3d 104 (2d Cir. 2002)[8] to support her

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[8] The plaintiffs in Bogdanovich requested stay relief on the basis that the resolution of an appeal of a jury verdict, if affirmed, would preclude litigation of their nondischargeability action. However, the Second Circuit found there was insufficient information in the complaint, the transcript, and the jury (continued...)

contention that only a final judgment on the merits can be used to preclude a subsequent proceeding. We do not disagree. However, the bankruptcy court undertook its analysis of issue preclusion as a hypothetical simply to determine if stay relief might resolve, efficiently and economically, issues in the bankruptcy court. Wang conflates the bankruptcy court's analysis under the Curtis Factors with the notion that the bankruptcy court granted stay relief so that Votteler could try to "win on appeal and then retroactively impose [issue preclusion] to support the [D]efault [J]udgment." Appellant's Opening Br. at 15. As the bankruptcy court was careful to note, whether or not issue preclusion actually does or will apply to the Nondischargeability Complaint after the outcome of the Appeal is left to decide at another time.

The bankruptcy court correctly analyzed the Curtis Factors and found that because the litigation on the State Court Complaint had progressed to the point where the parties had only the opening briefs left to be submitted for the Appeal, there was minimal cost or effort in allowing the Appeal to proceed. The resolution of the Appeal would decide Wang's contentions that she was not afforded the opportunity to defend against the allegations contained in State Court Complaint and would potentially assist the bankruptcy court in its determination of

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[8](...continued)
verdict to know what specific allegations were submitted to the jury. The court concluded that issue preclusion could not be used because the court was unable to determine what issues were "actually and necessarily" decided. 292 F.3d at 113-14.

the preclusive effect of the Default Judgment on the Nondischargeability Complaint. Thus, the bankruptcy court found that it would be in the interests of judicial economy to allow the Appeal to proceed. This finding was not illogical, implausible, or unsupported by the record, and therefore, was not an abuse of discretion.

B. Lack Of Prejudice To Creditors And Balance Of Hurt

The bankruptcy court found that because the parties had only the opening briefs left to prepare for the Appeal, "the minimal expense of completing an appeal that may fully resolve the issue [would] result in less hardship and prejudice to all parties (including creditors) and be more expeditious and economical than requiring both parties to re-litigate the action from the beginning." Memorandum Decision at 6. Trial on the Nondischargeability Complaint was approximately six months away. While it appeared from the record that discovery had begun, it was unclear whether it had concluded. Nevertheless, the trial would necessarily demand more effort and cost to the parties and the court than the submission of an appellate brief. Given that Wang had very few creditors and received her bankruptcy discharge on March 31, 2010, the other creditors were not prejudiced by allowing the Appeal to proceed.

The bankruptcy court applied the correct rule of law by analyzing the Curtis Factors to determine whether cause existed to lift the stay, and by analyzing the correct legal standard for issue preclusion as part of that analysis. As discussed, not all the Curtis Factors apply to each case, nor must the factors be given equal weight. The bankruptcy court's finding that the

resolution of the Appeal would promote judicial economy by potentially resolving, efficiently, in part or in whole, the issues raised by the Nondischargeability Complaint without prejudice to the other parties is not illogical, implausible, or unsupported by the facts in the record. Accordingly, we conclude that the bankruptcy court did not abuse its discretion in granting Votteler relief from the automatic stay so that the Appeal could proceed to resolution in the state court.

CONCLUSION

For the foregoing reasons, we AFFIRM the bankruptcy court's Stay Relief Order.