

MAR 26 2014

NOT FOR PUBLICATION

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

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:) BAP No. CC-13-1148-KuPaTa
)
ROBERT W. HUNT M.D.,) Bk. No. 11-58228
a Medical Corporation,)
)
Debtor.)

PELI POPOVICH HUNT, Agent for)
Robert W. Hunt M.D., a Medical)
Corporation & Trustee of 2007)
Restated Robert & Peli Hunt)
Living Trust,)
)
Appellant,)

v.)

MEMORANDUM*

DAVID M. GOODRICH, Chapter 7)
Trustee,)
)
Appellee.)

Argued and Submitted on February 20, 2014
at Pasadena, California

Filed - March 26, 2014

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

Honorable Ernest M. Robles, Bankruptcy Judge, Presiding

Appearances: Franklin Pegues Jeffries argued for appellant Peli
Popovich Hunt, as agent for Robert W. Hunt M.D., a
Medical Corporation, and as trustee of the 2007
Restated Robert & Peli Hunt Living Trust; Jill R.
Schechter argued for appellee David M. Goodrich,
Chapter 7 Trustee.

*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 Before: KURTZ, PAPPAS and TAYLOR, Bankruptcy Judges.

2 **INTRODUCTION**

3 Peli Popovich Hunt,¹ as agent for Robert W. Hunt, MD, a
4 Medical Corporation ("MD"), and as trustee of the 2007 Restated
5 Robert & Peli Hunt Living Trust ("Hunt Trust"), appeals from the
6 order disallowing MD's exemption claims and from the order
7 denying MD's motion to modify the disallowance order.

8 The bankruptcy court correctly held that MD, as a
9 corporation, is not entitled to claim any exemptions under
10 11 U.S.C. § 522(b).² The bankruptcy court also correctly held
11 that Cal. Probate Code §§ 16335 and 19324, on which MD relied as
12 the statutory grounds for its exemption claims, do not actually
13 confer any exemptions. Therefore, we AFFIRM.

14 **FACTS**

15 MD commenced its voluntary chapter 11 bankruptcy case in
16 November 2011.³ Peli signed all of MD's initial schedules and
17 its initial statement of financial affairs as an officer of the
18 corporation. Also, she identified herself therein as MD's

19
20
21 ¹We refer to Peli Popovich Hunt herein by her first name,
Peli, for ease of reference. No disrespect is intended.

22 ²Unless specified otherwise, all chapter and section
23 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
24 all "Rule" references are to the Federal Rules of Bankruptcy
Procedure, Rules 1001-9037.

25 ³To facilitate our analysis and disposition of this appeal,
26 we have drawn some of our facts from items referenced in the
27 bankruptcy court's case docket. We take judicial notice of the
28 record in the underlying bankruptcy case. See O'Rourke v. Seaboard Sur. Co. (In re E.R. Fegert, Inc.), 887 F.2d 955, 957-58 (9th Cir. 1989).

1 president, treasurer, secretary, director and 100% owner.⁴ The
2 bankruptcy court subsequently appointed a chapter 11 trustee and,
3 on the chapter 11 trustee's motion, thereafter converted the case
4 to chapter 7. David Goodrich was appointed to serve as chapter 7
5 trustee.

6 MD did not initially file any Schedule C listing exemptions
7 claimed. This was an intentional omission. As stated in MD's
8 chapter 11 disclosure statement: "Debtor is a corporation and
9 has not filed Schedule C, and thus does not claim any exemptions
10 by way of Schedule C." Disclosure Statement (April 15, 2012) at
11 17:10-11. Nonetheless, on October 15, 2012, MD filed papers
12 indicating that it was claiming as exempt a host of assets,
13 including: the medical office building from which it conducted
14 its business ("Offices"); its accounts receivables; rental
15 derived from leasing some of the Offices; ten acres of vacant
16 land in Cotulla, Texas; several parcels of real property located
17 in Glendale, California; its goodwill; its medical records; and
18 so on. The statutory bases stated for each of the exemption
19 claims were § 522(b) and Cal. Probate Code §§ 16335 and 19324.

20 On November 28, 2012, within thirty days of the conclusion
21 of the § 341(a) meeting in the chapter 7 case, Goodrich filed an
22 objection to all of MD's exemption claims. As pointed out by
23 Goodrich, only individual debtors can claim exemptions under
24 § 522(b), and MD by its own admission was a corporation.

26 ⁴In a later version of MD's schedules and statement of
27 financial affairs, filed after the case was converted to
28 chapter 7, Peli identified herself merely as MD's "agent" and
specified that MD was 100% owned by the Hunt Trust.

1 Furthermore, Goodrich noted, the provisions of the California
2 Probate Code relied upon by MD did not actually provide for any
3 exemptions.

4 MD filed a response, in which it contended that certain
5 procedural defects existed which invalidated Goodrich's exemption
6 claim objection. According to MD, Goodrich did not timely or
7 properly accept his appointment as chapter 7 trustee, and he had
8 not posted the requisite bond. MD further asserted that the
9 exemption objection was untimely and that the objection should
10 have been signed by Goodrich's counsel of record rather than
11 Goodrich himself.

12 On January 9, 2013, the bankruptcy court held a hearing on
13 the exemption claim objection and, for the reasons stated in the
14 objection, sustained the objection in its entirety. On
15 January 14, 2013, the bankruptcy court entered an order
16 sustaining Goodrich's objection and disallowing MD's exemption
17 claims.

18 On January 28, 2013, MD filed a motion to modify the court's
19 order disallowing its exemption claims. The motion to modify
20 reiterated MD's concerns regarding the timeliness of the
21 exemption claim objection and regarding Goodrich's allegedly
22 improper and untimely notice of his appointment as chapter 7
23 trustee. The modification motion also complained about how the
24 hearing on the exemption claim objection was conducted and the
25 amount of time the court waited before entering the order
26 sustaining the objection. In essence, MD asserted, it was not
27 given a full and fair opportunity to respond to the exemption
28 claim objection. Goodrich opposed the motion to modify, and MD

1 filed a reply.

2 On March 13, 2103, the bankruptcy court entered a memorandum
3 decision and a separate order denying the modification motion.
4 According to the bankruptcy court, MD had not offered any grounds
5 that would justify reconsideration of the order sustaining
6 Goodrich's exemption claim objection.

7 On March 25, 2013, MD timely filed a notice of appeal from
8 the order denying its modification motion and from the order
9 disallowing its exemption claims.

10 JURISDICTION

11 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.
12 §§ 1334 and 157(b) (2) (A) and (B). We have jurisdiction under
13 28 U.S.C. § 158.

14 ISSUES

- 15 1. Did the bankruptcy court err when it disallowed MD's
16 exemption claims?
- 17 2. Did the bankruptcy court abuse its discretion when it denied
18 MD's modification motion?

19 STANDARDS OF REVIEW

20 We review de novo the bankruptcy court's interpretation of
21 state exemption laws, as well as its interpretation of the
22 Bankruptcy Code. See Hopkins v. Cerchione (In re Cerchione),
23 414 B.R. 540, 545 (9th Cir. BAP 2009). Under the de novo
24 standard of review, "we consider a matter anew, as if no decision
25 had been rendered previously." Mele v. Mele (In re Mele),
26 501 B.R. 357, 362 (9th Cir. BAP 2013).

27 In substance, MD's modification motion was a motion under
28 Rule 9023 seeking to alter or amend the court's exemption claim

1 disallowance order. We review the denial of that motion for an
2 abuse of discretion. In re Cerchione, 414 B.R. at 545. A
3 bankruptcy court abuses its discretion if it identifies the
4 incorrect legal standard to apply, or if its factual findings are
5 illogical, implausible or without support in the record. See
6 United States v. Hinkson, 585 F.3d 1247, 1262 (9th Cir.2009)
7 (en banc).

8 **DISCUSSION**

9 The commencement of a bankruptcy case creates a bankruptcy
10 estate consisting of all of the debtor's property. See § 541;
11 Wolfe v. Jacobson (In re Jacobson), 676 F.3d 1193, 1198 (9th Cir.
12 2012); Gaughan v. Smith (In re Smith), 342 B.R. 801, 805 (9th
13 Cir. BAP 2006). The debtor may exempt property from the estate
14 to the extent permitted by applicable law. See § 522(b);
15 In re Jacobson, 676 F.3d at 1198. Typically, the debtor's
16 entitlement to an exemption is determined based on the facts and
17 law as they existed at the time of the debtor's bankruptcy
18 filing. See In re Jacobson, 676 F.3d at 1199; Ford v. Konnoff
19 (In re Konnoff), 356 B.R. 201, 204-05 (9th Cir. BAP 2006). And
20 the trustee bears the burden of proof to establish that the
21 debtor is not entitled to the claimed exemption. See
22 In re Cerchione, 414 B.R. at 548-49.

23 The right to claim property as exempt from property of the
24 estate under § 522(b) is afforded only to "individual" debtors.
25 See § 522(b)(1); Andrada Financing, LLC v. Humara Group, Inc.
26 (In re Andrada Financing, LLC), 2011 WL 3300983, at *1 n.3 (9th
27 Cir. BAP 2011). As one leading treatise states, "[s]ection
28 522(b)(1) allows individual debtors to claim property as exempt

1 from the bankruptcy estate. Since individuals are distinct from
2 partnerships and corporations, those forms of enterprises are not
3 eligible to claim exemptions." 4 Collier on Bankruptcy
4 ¶ 522.04[3] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.
5 2013) (footnotes omitted). Because MD, as a corporation, was not
6 entitled to claim exemptions under § 522(b), the bankruptcy court
7 correctly disallowed MD's exemption claims.

8 Even if MD were entitled to claim exemptions under § 522(b),
9 the California statutes on which it relied in support of its
10 exemption claims did not grant MD any exemption rights.
11 California has elected not to make available to its residents the
12 federal bankruptcy exemptions set forth in § 522(d).
13 In re Jacobson, 676 F.3d at 1198. Consequently, California
14 residents are limited to those exemptions permitted by California
15 law. See id.; Cal. Civ. Proc. Code § 703.130.

16 The exemptions that California has granted to its residents
17 generally are found at Cal. Civ. Proc. Code §§ 703.140(b) and
18 704.010, et seq. See Garcia v. Orange Cnty's Credit Union
19 (In re Garcia), 451 B.R. 909, 913 (C.D. Cal. 2011), aff'd,
20 709 F.3d 861 (9th Cir. 2013); Sticka v. Applebaum
21 (In re Applebaum), 422 B.R. 684, 686 n.2 (9th Cir. BAP 2009);
22 see also Kono v. Meeker, 196 Cal.App.4th 81, 86 (2011) ("The
23 kinds and degrees of property exempt from levy are described in
24 sections 704.010 through 704.210."). Here, MD did not attempt to
25 claim any exemptions under either Cal. Civ. Proc. Code
26 §§ 703.140(b) or 704.010, et seq. Instead, it relied upon two
27 statutes from California's Probate Code to support all of its
28 exemption claims.

1 The first statute MD relied upon, Cal. Probate Code
2 § 16335,⁵ generally concerns what the fiduciary of a trust or a
3 decedent's estate is permitted to do and is required to do in
4 terms of allocating receipts and disbursements between principal
5 and income.

6 The second statute MD relied upon, Cal. Probate Code
7 § 19324,⁶ deals with the allocation of debt between a trust and a

8
9 ⁵Cal. Probate Code § 16335 provides in part as follows:

10 (a) In allocating receipts and disbursements to or
11 between principal and income, and with respect to any
12 other matter within the scope of this chapter, a
fiduciary:

13 (1) Shall administer a trust or decedent's estate in
14 accordance with the trust or the will, even if there is
a different provision in this chapter.

15 (2) May administer a trust or decedent's estate by the
16 exercise of a discretionary power of administration
17 given to the fiduciary by the trust or the will, even
18 if the exercise of the power produces a result
19 different from a result required or permitted by this
20 chapter, and no inference that the fiduciary has
improperly exercised the discretion arises from the
fact that the fiduciary has made an allocation contrary
to a provision of this chapter.

21 (3) Shall administer a trust or decedent's estate in
22 accordance with this chapter if the trust or the will
23 does not contain a different provision or does not give
the fiduciary a discretionary power of administration.

24 (4) Shall add a receipt or charge a disbursement to
25 principal to the extent that the trust or the will and
26 this chapter do not provide a rule for allocating the
receipt or disbursement to or between principal and
income.

27 ⁶Cal. Probate Code § 19324 provides in part as follows:
28 (continued...)

1 surviving spouse of the settlor. On their face, neither of these
2 statutes entitled MD to claim an exemption. California

3
4 ⁶(...continued)

5 (a) The trustee, the personal representative, if any,
6 of a deceased settlor's probate estate, and the
7 surviving spouse may provide for allocation of debts by
8 agreement so long as the agreement substantially
9 protects the rights of other interested persons. The
10 trustee, the personal representative, or the spouse may
11 request and obtain court approval of the allocation
12 provided in the agreement.

13 (b) In the absence of an agreement, each debt subject
14 to allocation shall first be characterized by the court
15 as separate or community, in accordance with the laws
16 of the state applicable to marital dissolution
17 proceedings. Following that characterization, the debt
18 or debts shall be allocated as follows:

19 (1) Separate debts of either spouse shall be allocated
20 to that spouse's separate property assets, and
21 community debts shall be allocated to the spouses'
22 community property assets.

23 (2) If a separate property asset of either spouse is
24 subject to a secured debt that is characterized as that
25 spouse's separate debt, and the net equity in that
26 asset available to satisfy that secured debt is less
27 than that secured debt, the unsatisfied portion of that
28 secured debt shall be treated as an unsecured separate
debt of that spouse and allocated to the net value of
that spouse's other separate property assets.

(3) If the net value of either spouse's separate
property assets is less than that spouse's unsecured
separate debt or debts, the unsatisfied portion of the
debt or debts shall be allocated to the net value of
that spouse's one-half share of the community property
assets. If the net value of that spouse's one-half
share of the community property assets is less than
that spouse's unsatisfied unsecured separate debt or
debts, the remaining unsatisfied portion of the debt or
debts shall be allocated to the net value of the other
spouse's one-half share of the community property
assets.

1 exemptions are exclusively the product of legislative enactment,
2 in the form of statutory exemption provisions, and courts
3 interpreting those provisions may not confer exemptions not
4 specifically provided for by statute. See Collect Access LLC v.
5 Hernandez (In re Hernandez), 483 B.R. 713, 724 (9th Cir. BAP
6 2012) (citing Ford Motor Credit Co. v. Waters, 166 Cal.App.4th
7 Supp. 1, 8 (2008)); Kono, 196 Cal.App.4th at 86.

8 In order to claim an exemption, the debtor must state the
9 statutory basis for the exemption claim. See Schwab v. Reilly,
10 130 S.Ct. 2652, 2663 (2010) (indicating that the trustee and the
11 bankruptcy court are entitled to evaluate exemption claims based
12 on the statutory grounds stated in the debtor's Schedule C);
13 9 Collier on Bankruptcy, supra, at ¶ 4003.02[1]. Because neither
14 Cal. Probate Code § 16335 nor Cal. Probate Code § 19324 confer
15 any exemption rights, neither statute provides any legal basis
16 for MD's exemption claims. This is another reason that we
17 conclude that the bankruptcy court correctly disallowed them.

18 On appeal, MD reiterates the same procedural concerns it
19 raised in the bankruptcy court. First and foremost, MD contends
20 that Goodrich's exemption claim objection was untimely filed,
21 citing § 521(a)(2)(A) and (B) and Taylor v. Freeland & Kronz,
22 503 U.S. 638 (1992). But nothing in either § 521 or in Taylor
23 required the bankruptcy court to conclude that Goodrich's
24 objection was untimely. Rule 4003(b) set the deadline for
25 objecting to MD's exemption claims, and that deadline was 30 days
26 after the conclusion of the § 341(a) meeting of creditors or
27 30 days after the filing of any amendment to the debtor's
28 schedules, whichever was later. See Rule 4003(b); Schwab,

1 130 S.Ct. at 2658 ("Subject to exceptions not relevant here, the
2 Federal Rules of Bankruptcy Procedure require interested parties
3 to object to a debtor's claimed exemptions within 30 days after
4 the conclusion of the creditors' meeting held pursuant to
5 Rule 2003(a).").

6 Here, MD filed its Schedule C on October 5, 2012, for the
7 first time attempting to claim its assets as exempt. And
8 Goodrich concluded the § 341(a) meeting of creditors on
9 November 6, 2012. Under these facts, the deadline for Goodrich
10 to file his exemption claim objection was December 6, 2012
11 (30 days after conclusion of the § 341(a) meeting of creditors).
12 Consequently, Goodrich's exemption claim objection, filed on
13 November 28, 2012, was timely. Thus, MD's contention regarding
14 the timeliness of the objection is meritless.⁷

15 MD also claims that Goodrich did not properly and timely
16 accept and qualify for his appointment as chapter 7 trustee, so
17 his exemption claim objection was invalid. According to MD,
18 Goodrich was required under § 322, within seven days of his
19 appointment, to do each of the following: (1) to file with the
20 court an individual bond covering his conduct in the case, and
21 (2) to file and serve notice of his acceptance of the
22 appointment. We disagree. Based on the Bankruptcy Rules
23 governing the acceptance and qualification of trustees, there was
24

25 ⁷The fact that MD's case had been converted from chapter 11
26 to chapter 7 does not change our analysis. Subject to a handful
27 of exceptions not applicable here, the Federal Rules of
28 Bankruptcy Procedure explicitly provide for the commencement of a
new limitations period under Rule 4003(b) after a case has been
converted to chapter 7. See Rule 1019(2)(B).

1 nothing improper or untimely about Goodrich's acceptance and
2 qualification. More specifically, Rule 2010 permitted Goodrich
3 to post a blanket bond covering his trustee services in multiple
4 cases, and Rule 2008 did not require Goodrich to file or serve
5 anything before his appointment as trustee became effective. In
6 relevant part, Rule 2008 provides:

7 A trustee that has filed a blanket bond pursuant to
8 Rule 2010 and has been selected as trustee in a
9 chapter 7, chapter 12, or chapter 13 case that does not
10 notify the court and the United States trustee in
11 writing of rejection of the office within seven days
12 after receipt of notice of selection shall be deemed to
13 have accepted the office.

14 (Emphasis added.)

15 Here, on July 30, 2012, the United States Trustee filed a
16 notice stating that Goodrich had been appointed to serve as
17 chapter 7 trustee and that the case was covered by a blanket bond
18 on file with the court. When Goodrich did not reject this
19 appointment in writing within seven days, his appointment as MD's
20 chapter 7 trustee automatically became effective, per Rules 2008
21 and 2010.

22 Moreover, a notice of commencement of the chapter 7 case was
23 served on MD's counsel on August 1, 2012. That notice identified
24 Goodrich as the case trustee. If MD had any genuine concern
25 regarding Goodrich's selection, acceptance or qualification as
26 trustee, MD should have acted upon receipt of that notice.

27 Instead, MD waited until Goodrich took actions in the case that
28 MD opposed and then attempted to invalidate those actions by
raising unfounded concerns regarding Goodrich's qualification and
acceptance of his appointment as trustee.

Even if there had been some technical defect associated with

1 Goodrich's qualification and acceptance (there was not), it is
2 unlikely that such a defect would have justified the invalidation
3 of Goodrich's filings and other official actions months after the
4 fact. See generally Granderson v. Carpenter (In re Granderson),
5 252 B.R. 1, 5-6 (1st Cir. BAP 2000) (holding that § 322 is not
6 jurisdictional and that untimely filing of trustee's bond did not
7 invalidate trustee's actions in chapter 7 case). To hold
8 otherwise would encourage debtors who disagree with legitimate
9 trustee activities to belatedly raise technical procedural
10 arguments regarding trustee appointment, qualification and
11 acceptance, at the expense of the proper, expeditious and
12 economical functioning of chapter 7 cases.

13 MD next argues that Goodrich's counsel of record in this
14 case, rather than Goodrich himself, should have signed and filed
15 the exemption claim objection. According to MD, because
16 Goodrich rather than his counsel signed and filed the objection,
17 the bankruptcy court should have struck the objection. We
18 disagree.

19 The chapter 7 trustee represents the interests of the
20 bankruptcy estate and has the authority to sue and be sued on
21 behalf of the estate. See § 323. Furthermore, the trustee is
22 obligated to conserve the estate's assets and maximize the
23 distribution to the estate's creditors. United States ex rel.
24 Block v. Aldrich (In re Rigden), 795 F.2d 727, 730 (9th Cir.
25 1986). In order to conserve estate assets and maximize creditor
26 recoveries, the trustee may appear in the bankruptcy court
27 without the assistance of counsel to represent the estate's
28 interests. See generally In re Virissimo, 354 B.R. 284, 296-97

1 (Bankr. D. Nev. 2006) (discussing when trustee should be expected
2 to pursue routine bankruptcy court matters without the assistance
3 of counsel); In re Perkins, 244 B.R. 835, 844 (Bankr. D. Mont.
4 2000) (same). In fact, the Local Bankruptcy Rules for the
5 Central District of California state that "Routine objections to
6 exemption" are deemed by the court to be "'trustee services'
7 subject to the limitation on compensation contained in 11 U.S.C.
8 § 326(a)." C.D. Cal. Local Bankr. R. 2016-2(e)(2)(L). Thus, the
9 local rules indicate that the bankruptcy court typically
10 considers it unnecessary and inappropriate for the trustee to
11 utilize the assistance of counsel to make routine objections to
12 exemption claims.

13 According to MD, once Goodrich retained counsel to represent
14 him in the bankruptcy case, only that counsel could properly file
15 the exemption claim objection on behalf of the bankruptcy estate.
16 MD cited Rule 9011 to support this argument.⁸ We decline to
17 construe Rule 9011 as prohibiting bankruptcy trustees from
18 representing themselves in exemption claim objection proceedings
19 once they have retained general bankruptcy counsel. To do so
20 might unnecessarily increase estate costs at the expense of the
21 estate's creditors. The principal purpose of Rule 9011 is to
22 discourage counsel and unrepresented litigants from filing
23 frivolous papers in the bankruptcy court or from filing papers
24 for improper purposes. See Marsch v. Marsch (In re Marsch),

26 ⁸At times, MD actually referred to Rule 8011, but Rule 8011
27 has nothing to do with who must sign and file papers with the
28 bankruptcy court. Rule 8011 deals with motions filed in
bankruptcy appeals.

1 36 F.3d 825, 829-30 (9th Cir. 1994). That purpose is not impeded
2 by permitting bankruptcy trustees to represent themselves in
3 appropriate bankruptcy matters, even when the trustees have
4 retained general bankruptcy counsel. Provided that the
5 bankruptcy trustee has signed the papers to be filed, as Goodrich
6 did here, the trustee has sufficiently complied with the
7 requirements of Rule 9011(a). By signing and filing such papers,
8 the trustee thereby certifies the propriety of the papers filed,
9 in accordance with Rule 9011(b), to the same extent as the
10 trustee's counsel would have if counsel had signed the papers on
11 the trustee's behalf.

12 At bottom, this argument is nothing more than another
13 attempt by MD to turn a spurious procedural defect into grounds
14 for invalidating the trustee's meritorious exemption claim
15 objection. We are not persuaded that either Rule 9011 or any
16 other Rule or provision of the Bankruptcy Code required the
17 bankruptcy court to strike the objection.

18 The only other challenge to the exemption claim disallowance
19 order we can discern from MD's opening appeal brief appears
20 substantive in nature. But that argument is difficult to follow
21 at best and incomprehensible at worst. As best we can make out,
22 MD's representative, Peli, is arguing that either she or the
23 Trust is the true owner of most or all of MD's assets. But this
24 argument does not support MD's position in this appeal. Even if
25 we were to assume the truth and validity of Peli's ownership
26 allegations, that would only serve to establish yet another
27 reason why the court properly disallowed MD's exemption claims.
28 On its face, § 522(b)(1) only permits an individual debtor to

1 exempt property from his or her own bankruptcy estate. Thus, if
2 MD really has no ownership interest in the assets claimed as
3 exempt, then MD could not properly claim an exemption in them
4 under § 522(b)(1).

5 MD also challenges on appeal the bankruptcy court's denial
6 of its modification motion. To establish grounds for amendment
7 or alteration of the exemption claim disallowance order, MD
8 needed to demonstrate one or more of the following: (1) that it
9 could present "newly discovered evidence that was not available
10 at the time of the original hearing," (2) that the bankruptcy
11 court "committed clear error or made an initial decision that was
12 manifestly unjust," or (3) that "there is an intervening change
13 in controlling law." Fadel v. DCB United LLC (In re Fadel),
14 492 B.R. 1, 18 (9th Cir. BAP 2013).

15 Once again, MD's arguments are difficult to follow.
16 However, for the most part, MD attempted in its modification
17 motion to reargue the same points it argued in support of its
18 exemption claims. Rehashing arguments previously made and
19 rejected is neither appropriate nor sufficient to support a
20 motion to alter or amend a bankruptcy court's judgment or order.
21 See id.

22 For the first time in its modification motion, MD appears to
23 complain that Goodrich did not file a reply in support of his
24 exemption claim objection and chose to rest on the bankruptcy
25 court's tentative ruling rather than orally argue in support of
26 his objection. MD also complains that the bankruptcy court
27 signed and entered Goodrich's proposed form of order disallowing
28 MD's exemption claims without waiting for the time period to

1 expire under Local Bankruptcy Rule 9021-1(b)(3)(B), which permits
2 the adverse party an opportunity to object to the form of the
3 proposed order.

4 But none of MD's complaints about the procedures the
5 bankruptcy court utilized justified modification of the court's
6 exemption claim disallowance order. The record establishes that
7 MD had a full and fair opportunity to present all of its
8 arguments in support of its exemption claims and that none of
9 these arguments had any merit. The record further establishes
10 that MD's so-called objections to the form of Goodrich's proposed
11 order were nothing more than an attempt to reargue the merits of
12 its exemption claims. Because no amount of additional response
13 time and no amount of additional briefing would have rendered
14 MD's merits arguments any more valid or effective, any error of
15 the bankruptcy court concerning its hearing practices or
16 concerning its consideration of Goodrich's proposed form of order
17 necessarily was harmless. And we must ignore harmless error.
18 See Van Zandt v. Mbunda (In re Mbunda), 484 B.R. 344, 355 (9th
19 Cir. BAP 2012).

20 In sum, the bankruptcy court did not abuse its discretion in
21 denying the modification motion.

22 **CONCLUSION**

23 For the reasons set forth above, we AFFIRM the bankruptcy
24 court's order sustaining Goodrich's exemption claim objection,
25 and we also AFFIRM the bankruptcy court's order denying MD's
26 modification motion.