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

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:) BAP No. MT-13-1412-KuPaJu
)
 6 DARREL LINN MOSS,) Bk. No. 12-61093
)
 7 Debtor.)
)
 8 SHARON BOYCE; KYEANN SAYER,)
)
 9 Appellants,)
)
 10 v.) **MEMORANDUM***
)
 11 RICHARD JOSEPH SAMSON, Chapter)
 7 Trustee; DARREL LINN MOSS,)
)
 12 Appellees.)
)
 13

Submitted Without Argument
on March 20, 2014**

Filed - April 3, 2014

Appeal from the United States Bankruptcy Court
for the District of Montana

Honorable Ralph B. Kirscher, Chief Bankruptcy Judge, Presiding

Appearances: Appellants Sharon Boyce and Kyeann Sayer, pro se,
 on brief; Richard Joseph Samson, Chapter 7
 Trustee, pro se, on brief.

Before: KURTZ, PAPPAS and JURY, Bankruptcy Judges.

*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.

**By order entered January 9, 2014, the Panel determined that this appeal was suitable for submission without oral argument.

1 **INTRODUCTION**

2 This appeal arises from a bankruptcy court order disposing
3 of two distinct matters.

4 In the first, Richard J. Samson, chapter 7¹ trustee,
5 objected to the proof of claim filed by Sharon Boyce and Kyeann
6 Sayer. In his claim objection, Samson argued that Boyce and
7 Sayer's claim should be disallowed because the Montana District
8 Court for the County of Missoula, Fourth Judicial District, had
9 entered a final judgment against Boyce and Sayer on all of the
10 causes of action on which Boyce and Sayer based their proof of
11 claim. The bankruptcy court agreed with Samson and disallowed
12 the claim.

13 In the second, Boyce and Sayer sought, in essence, a
14 declaration that the judgment entered by the Missoula County
15 District Court was void as a violation of the automatic stay and,
16 hence, that a real property transfer the District Court had
17 voided as a fraudulent transfer had validly conveyed title to the
18 subject real property to Boyce and Sayer. The bankruptcy court
19 denied Boyce and Sayer's requested relief for two reasons:

- 20 (1) Boyce and Sayer should have sought the requested relief in an
21 adversary proceeding rather than in a contested matter, and
22 (2) the District Court's judgment was not entered in violation of
23 the automatic stay.

24 Boyce and Sayer challenge on appeal the bankruptcy court's

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26 ¹Unless specified otherwise, all chapter and section
27 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
28 all "Rule" references are to the Federal Rules of Bankruptcy
Procedure, Rules 1001-9037. All "Civil Rule" references are to
the Federal Rules of Civil Procedure.

1 disposition of both matters. Because the bankruptcy court did
2 not commit reversible error in ruling on these matters, we
3 AFFIRM.

4 **FACTS²**

5 Debtor Darrel Linn Moss, formerly licensed to practice law
6 in Montana, conducted business through his law firm known as Moss
7 & Associates, P.C. ("MAPC"). Boyce and Sayer were the sole
8 members of a Montana limited liability company known as Tupi
9 Plain, LLC. ("Tupi"). In September 2009, Tupi retained MAPC to
10 defend Tupi in a pending state court lawsuit, Loken Builders,
11 Inc. V. Tupi Plain, LLC, et al., Missoula County District Court
12 Case No. DV-06-1036.

13 In July 2010, MAPC sued Tupi, Boyce and Sayer in the
14 Missoula County District Court, Case No. DV-10-961, for
15 nonpayment of its legal fees arising from its representation of
16 Tupi in the Loken Builders lawsuit. Over the course of the next
17 two years, the Missoula County District Court entered a series of
18 orders and judgments in MAPC's lawsuit ultimately culminating in
19 a final judgment entered on July 26, 2012, in the amount of
20 \$101,181.34, against Tupi, Boyce and Sayer.

21 Understanding what the Missoula County District Court ruled
22 in these orders is essential to our resolution of this appeal.
23 In March 2011, the Missoula County District Court entered a
24 default judgment against Tupi in the amount of \$49,267.87. In

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26 ²Unless otherwise indicated, the facts set forth herein are
27 drawn from the bankruptcy court's memorandum of decision entered
28 on August 13, 2013. Most of the facts are not subject to genuine
dispute, and Boyce and Sayer have not challenged any of the
recited facts in their opening brief.

1 response to the default judgment, in April 2011 Boyce and Sayer
2 filed a motion to set it aside and in November 2011 a separate
3 motion to vacate the default judgment as void. The Missoula
4 County District Court denied both motions. Boyce and Sayer also
5 filed two appeals with the Montana Supreme Court seeking to set
6 aside or reverse the default judgment, as well as a petition for
7 writ of supervisory control. The Montana Supreme Court dismissed
8 the appeals and denied the petition, without prejudice to Boyce
9 and Sayer filing a timely appeal after the Missoula County
10 District Court entered a final judgment in MAPC's lawsuit.

11 Shortly after entry of the default judgment against Tupi,
12 MAPC amended its complaint. In the amended complaint, MAPC
13 alleged that Boyce and Sayer caused Tupi to transfer its only
14 asset, a residence located on Gerald Avenue in Missoula, Montana,
15 and that this transfer should be voided as a fraudulent transfer
16 under Montana law. The amended complaint also contained a
17 separate cause of action seeking to pierce the limited liability
18 company veil between Tupi on the one hand and Boyce and Sayer on
19 the other hand.

20 In response to the amended complaint, Boyce and Sayer filed
21 separate but nearly identical answers and counterclaims against
22 MAPC for breach of contract, malpractice, breach of fiduciary
23 duty and fraud. Sayer's counterclaims also included an extra
24 counterclaim for intentional infliction of emotional distress.
25 Boyce and Sayer then filed third party complaints against Moss,
26 which mirrored their counterclaims. As the counterclaims and
27 third party claims demonstrate on their face, they all arose from
28 MAPC's representation of Tupi in the Loken Builders lawsuit.

1 Over the next several months, the parties filed numerous
2 motions. Some of these motions related to discovery disputes,
3 while others sought to dispose of the parties' claims,
4 counterclaims and third party claims.

5 On February 16, 2012, the Missoula County District Court
6 entered its "Opinion and Order re: Pending Motions." In this
7 order, the Missoula County District Court resolved all of the
8 outstanding motions and, in fact, disposed of all of the pending
9 claims, counterclaims and third party claims. The only aspect of
10 the lawsuit not resolved by the February 2012 order was MAPC's
11 entitlement to an award of attorney's fees and costs.

12 In relevant part, the February 2012 order granted Moss's
13 motion for judgment on the pleadings with respect to all of Boyce
14 and Sayer's third party claims against Moss. The Missoula County
15 District Court acknowledged that Boyce and Sayer voluntarily
16 dissolved Tupi in January 2011 but held that Tupi nonetheless
17 remained a distinct business entity under Montana law, separate
18 from its members Boyce and Sayer for purposes of winding up
19 Tupi's affairs. The District Court further held that, to the
20 extent Boyce and Sayer sufficiently pled third party claims
21 against Moss, these third party claims on their face belonged to
22 Tupi, not to Boyce and Sayer, and Boyce and Sayer could not
23 pursue these claims on Tupi's behalf.

24 Additionally, the February 2012 order granted MAPC summary
25 judgment on its fraudulent transfer and alter ego claims against
26 Boyce and Sayer, voided the transfer of the Gerald Avenue
27 residence, and adjudged Boyce and Sayer jointly and severally
28 liable for the same amount of damages (plus interest, costs and

1 attorney's fees) it had awarded against Tupi in the March 2011
2 default judgment.

3 On July 19, 2012, the Missoula County District Court entered
4 an order awarding MAPC attorney's fees of \$43,584 and costs of
5 \$1,646.97. In a final judgment entered on July 26, 2012, the
6 District court aggregated all of the amounts awarded in favor of
7 MAPC and against Tupi, Boyce and Sayer, for a grand total of
8 \$101,181.34. On July 30, 2012, Moss recorded in the official
9 records of Missoula County a document entitled "Notice of Entry
10 of Judgment Affecting Title to Real Property," which document
11 excerpted the portion of the District Court's February 2012 order
12 that had voided the transfer of the Gerald Avenue residence.

13 On August 27, 2012, Boyce and Sayer filed in the Montana
14 Supreme Court a notice of appeal seeking review of the Missoula
15 County District Court's July 2012 judgment, the July 2012 fee
16 award, the February 2012 order and the March 2011 default
17 judgment. Subsequently, however, Boyce and Sayer requested a
18 voluntary dismissal of their appeal, which request the Montana
19 Supreme Court granted on September 24, 2012.

20 On July 3, 2012, just prior to the entry of the July 2012
21 fee award and the July 2012 judgment in MAPC's lawsuit, Moss
22 commenced his chapter 7 case, and Samson was appointed to serve
23 as chapter 7 trustee. On Samson's request, the bankruptcy court
24 set a claims bar date, and Boyce and Sayer filed their joint
25 proof of claim asserting entitlement to an allowed claim against
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1 Moss's bankruptcy estate in the amount of \$533,000.³ On its
2 face, the proof of claim identified as the basis of the claim the
3 third party claims they had filed against Moss in MAPC's state
4 court lawsuit. Indeed, Boyce and Sayer even attached copies of
5 their third party claims to their proof of claim. Boyce and
6 Sayer later filed an amended proof of claim recalculating the
7 total amount claimed at \$440,000. However, the amended proof of
8 claim otherwise was no different than their initial proof of
9 claim. The claim still was based on the third party claims Boyce
10 and Sayer had asserted in the state court lawsuit.

11 Samson thereafter filed his claim objection. In essence,
12 the trustee pointed out that the Missoula County District Court
13 had ruled against Boyce and Sayer on their third party claims,
14 that the District Court's judgment was final, and that Boyce and
15 Sayer could have but failed to prosecute an appeal challenging
16 the District Court's judgment and specifically its February 2012
17 ruling on the third party claims. Consequently, Samson argued,
18 the proof of claim should be disallowed because it was based on
19 the same third party claims the Missoula County District Court
20 had rejected in February 2012.

21 In response, Boyce and Sayer contended that the July 2012
22 judgment was void, as were the March 2011 default judgment, the
23

24 ³We could not find a copy of Boyce and Sayer's initial proof
25 of claim in either party's excerpts of the record. Accordingly,
26 we obtained a copy of that proof of claim by accessing the
27 bankruptcy court's electronic claims register for case no.
28 12-61093-RBK. We take judicial notice of the filing and contents
of Boyce and Sayer's initial proof of claim. See O'Rourke v.
Seaboard Sur. Co. (In re E.R. Fegert, Inc.), 887 F.2d 955, 957-58
(9th Cir. 1989).

1 February 2012 order, the July 2012 fee award and the July 2012
2 final judgment.

3 The parties agreed to submit their dispute over the claim
4 objection to the bankruptcy court based on the parties' exhibits
5 and briefs. The parties additionally agreed to the admission
6 into evidence of all of their respective exhibits.⁴

7 On August 13, 2013, the bankruptcy court entered its order
8 and a separate memorandum of decision sustaining Samson's claim
9 objection and disallowing Boyce and Sayer's claim. The
10 bankruptcy court held that Boyce and Sayer had failed to
11 establish that any of the Missoula County District Court's orders
12 or judgments were void. The bankruptcy court also held that the
13 Missoula County District Court had fully and finally adjudicated
14 Boyce and Sayer's third party claims and that the District Court
15 had rejected each of those claims. Consequently, the bankruptcy
16 court reasoned, Boyce and Sayer's proof of claim, which was based
17 on precisely the same third party claims, was barred under the

19 ⁴Samson also filed a request that the bankruptcy court take
20 judicial notice of the filing and contents of four of the
21 Missoula County District Court's orders. In both the bankruptcy
22 court and on appeal, Boyce and Sayer strenuously have opposed
23 this request for judicial notice. Boyce and Sayer seem to
24 misapprehend the purpose and effect of a judicial notice request.
25 They seem to believe that the act of granting judicial notice
26 established the legal effect and validity of the documents. This
27 is not how judicial notice works. Granting judicial notice
28 merely established that the subject documents were on file in the
District Court and what was set forth in those documents. See
Liberty Mutual Ins. Co. v. Rotches Pork Packers, Inc., 969 F.2d
1384, 1388-89 (2d Cir. 1992). In any event, the judicial notice
issue is irrelevant to the resolution of this appeal because
Boyce and Sayer stipulated to the admission of these same
documents as exhibits.

1 doctrines of issue preclusion, claim preclusion and the Rooker-
2 Feldman Doctrine.

3 The bankruptcy court's order and memorandum decision also
4 addressed and resolved Boyce and Sayer's Motion to Remove Void
5 Judgement, filed on March 26, 2013. In that motion, Boyce and
6 Sayer in essence sought a judicial declaration that the Missoula
7 County District Court's entry of the July 2012 judgment was void
8 as a violation of the automatic stay and that title to the Gerald
9 Avenue residence remained vested in Boyce and Sayer. Boyce and
10 Sayer further sought to render ineffective Moss's notice of entry
11 of judgment, recorded on July 30, 2012, in the official records
12 of Missoula County, which notice excerpted the portion of the
13 District Court's earlier ruling voiding the transfer of the
14 residence to Boyce and Sayer as a fraudulent transfer.

15 The bankruptcy court denied the motion for two reasons.
16 First, the bankruptcy court held that the motion should have been
17 commenced and prosecuted as an adversary proceeding under
18 Rule 7001, et seq. And second, the bankruptcy court held that
19 the District Court's ruling voiding the subject real property
20 transfer did not violate the automatic stay.

21 Boyce and Sayer timely filed their notice of appeal on
22 August 22, 2013.

23 JURISDICTION

24 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.
25 §§ 1334 and 157(b)(2)(A) and (B). We have jurisdiction under
26 28 U.S.C. § 158.

27 ISSUES

28 1. Did the bankruptcy court commit reversible error when it

1 sustained Samson's claim objection and disallowed Boyce and
2 Sayer's claim?

- 3 2. Did the bankruptcy court commit reversible error when it
4 denied Boyce and Sayer's motion to remove void judgment?

5 **STANDARDS OF REVIEW**

6 The ultimate decision of the bankruptcy court to disallow a
7 claim is reviewed de novo. Continental Ins. Co. v. Thorpe
8 Insulation Co. (In re Thorpe Insulation Co.), 671 F.3d 1011,
9 1019-20 (9th Cir. 2012). The legal conclusions the bankruptcy
10 court relied upon in disallowing the claim also are reviewed de
11 novo. Id. However, the bankruptcy court's predicate findings of
12 fact are reviewed under the clearly erroneous standard. Id. And
13 these findings of fact are clearly erroneous only if they are
14 illogical, implausible, or lacking support in the record. Retz
15 v. Sampson (In re Retz), 606 F.3d 1189, 1196 (9th Cir. 2010).

16 We also review de novo the bankruptcy court's interpretation
17 of the Federal Rules of Bankruptcy Procedure. Am. Sports Radio
18 Network v. Krause (In re Krause), 546 F.3d 1070, 1073 n.5 (9th
19 Cir. 2008).

20 Finally, whether certain actions violated the automatic stay
21 is a question of law subject to de novo review. Wade v. State
22 Bar of Ariz. (In re Wade), 115 B.R. 222, 225 (9th Cir. BAP 1990),
23 aff'd, 948 F.2d 1122 (9th Cir. 1991).

24 **DISCUSSION**

25 We consider first whether the bankruptcy court correctly
26 determined that the proof of claim was barred by the doctrine of
27 claim preclusion.

28 Pursuant to the Full Faith and Credit Act, bankruptcy courts

1 must give preclusive effect to a state court judgment to the same
2 extent courts from that state would give such judgment preclusive
3 effect. 28 U.S.C. § 1738; Marciano v. Chapnick (In re Marciano),
4 708 F.3d 1123 (9th Cir. 2013). Thus, in order to determine the
5 preclusive effect of the Missoula County District Court's
6 judgment, we must look at Montana law. See Cal-Micro, Inc. v.
7 Cantrell (In re Cantrell), 329 F.3d 1119, 1123 (9th Cir. 2003).

8 Montana courts will apply res judicata or claim preclusion
9 if four criteria are satisfied: "The parties or their privies
10 are the same; the subject matter of the claim is the same; the
11 issues are the same and relate to the same subject matter; and
12 the capacities of the persons are the same in reference to the
13 subject matter and the issues." In re B.P., 35 P.3d 291, 293
14 (Mont. 2001). Accord, Braqq v. McLaughlin, 993 P.2d 662, 665
15 (Mont. 1999), partially overruled on other grounds, Essex Ins.
16 Co. v. Moose's Saloon, Inc., 166 P.3d 451 (Mont. 2007).

17 Here, Boyce and Sayer have not disputed that these factors
18 have been met. Nor could they seriously have disputed the
19 existence of these factors. As the sole basis for their claim,
20 Boyce and Sayer attached to their proof of claim copies of the
21 third party claims they filed against Moss in the Missoula County
22 District Court. In its February 2012 order, the District Court
23 disposed of these claims by ruling that, on their face, the
24 claims were meritless as a matter of law and that Moss was
25 entitled to a judgment on the pleadings as to each of these
26 claims.

27 Moreover, the time to appeal this ruling ended, at the very
28 latest, 30 days after Boyce and Sayer were sent notice on

1 December 7, 2012, of Moss's bankruptcy discharge, which
2 effectively caused the automatic stay to expire as to acts
3 against Moss. §§ 108(c)(2), 362(c)(2)(C); see also
4 In re Hoffinger Indus., Inc., 329 F.3d 948, 953 (8th Cir.
5 2003) (citing Parker v. Bain, 68 F.3d 1131, 1138 (9th Cir. 1995)).

6 Boyce and Sayer argue that the Missoula County District
7 Court's rejection of their third party claims in the February
8 2012 order never became a binding, final ruling for claim
9 preclusion purposes. According to Boyce and Sayer, the District
10 Court's July 2012 entry of a final judgment was an essential step
11 in fully and finally disposing of all the claims, counterclaims
12 and third party claims asserted in the state court lawsuit.
13 Because the entry of the July 2012 judgment was void as a
14 violation of the automatic stay, Boyce and Sayer reason, none of
15 the rulings contained in the February 2012 order became final and
16 binding for claim preclusion purposes.

17 Boyce and Sayer's argument lacks merit because it is based
18 on a false premise - that the July 2012 judgment is void as a
19 violation of the automatic stay. The Missoula County District
20 Court's entry of the July 2012 fee award and the July 2012
21 judgment are beyond the scope of the automatic stay. They did
22 not constitute acts against the bankruptcy estate, the debtor or
23 his property. See § 362(a). Boyce and Sayer contend that,
24 because the state court lawsuit included their third party claims
25 against Moss, the District Court could not enter the July 2012
26 final judgment without violating the automatic stay arising from
27 Moss's bankruptcy case, filed on July 3, 2012.

28 We disagree with Boyce and Sayer. When a single lawsuit

1 consists of claims both by and against the debtor, the claims are
2 considered separately in terms of determining the effect of the
3 automatic stay on the prosecution of those claims. Parker v.
4 Bain, 68 F.3d 1131, 1137 (9th Cir. 1995). As Parker explained:

5 "All proceedings in a single case are not lumped
6 together for purposes of automatic stay analysis. Even
7 if the first claim filed in a case was originally
8 brought against the debtor, section 362 does not
9 necessarily stay all other claims in the case. Within
10 a single case, some actions may be stayed, others not.
11 Multiple claim and multiple party litigation must be
12 disaggregated so that particular claims, counterclaims,
13 cross claims and third-party claims are treated
14 independently when determining which of their
15 respective proceedings are subject to the bankruptcy
16 stay."

17 Id. (emphasis added) (quoting Maritime Elec. Co. v. United Jersey
18 Bank, 959 F.2d 1194, 1204-05 (3d Cir. 1992)).

19 Here, the Missoula County District Court issued a
20 dispositive ruling rejecting all of Boyce and Sayer's third party
21 claims against Moss in February 2012, roughly four months before
22 Moss commenced his chapter 7 case. These third party claims were
23 the only claims stated in the lawsuit against Moss and, hence,
24 were the only claims potentially subject to the automatic stay.
25 Because the third party claims were resolved well before the
26 bankruptcy case and the automatic stay arose, their resolution
27 could not and did not constitute a stay violation. And because
28 all of the other claims stated in the state court lawsuit were
beyond the scope of the automatic stay, the District Court's
actions concerning these other claims also could not and did not
constitute a stay violation.

Alternately, Boyce and Sayer argue that one or more of the
Missoula County District Court's orders and judgments were void

1 for the following three reasons: (1) while the state court
2 lawsuit was pending, Moss could not lawfully represent MAPC
3 because he lost his status as a member in good standing with the
4 State Bar of Montana; (2) while the state court lawsuit was
5 pending, MAPC could not lawfully prosecute its claims against
6 Tupi, Boyce and Sayer because MAPC lost its status as a business
7 entity in good standing with the Montana Secretary of State; and
8 (3) while the state court lawsuit was pending, Tupi could not
9 lawfully be sued because Boyce and Sayer voluntarily dissolved
10 Tupi. If any of the District Court's orders or judgments were
11 void, it is true that those void orders or judgments should not
12 be given any preclusive effect. Mountain W. Bank, N.A. v.
13 Glacier Kitchens, Inc., 281 P.3d 600, 603 (Mont. 2012).

14 Even so, assuming without deciding the truth of the
15 predicate facts underlying each of Boyce and Sayer's asserted
16 voidness grounds, none of these grounds establish that any of the
17 Missoula County District Court's orders or judgments were void.
18 In Montana, "when a court has jurisdiction over the person and
19 the subject matter, and the judgment rendered is not in excess of
20 the jurisdiction or power of the court, no error or irregularity
21 can make the judgment void." Bragg, 993 P.2d at 665. Here, none
22 of Boyce and Sayer's claimed voidness grounds implicate the
23 Missoula County District Court's personal jurisdiction or subject
24 matter jurisdiction. While Boyce and Sayer have attempted to
25 characterize the issue regarding the dissolution of Tupi as a
26 jurisdictional issue, they have cited no case law holding that a
27 Montana court will lose personal jurisdiction over a limited
28 liability company if its members voluntarily dissolve the company

1 while a lawsuit against the company is pending. Nor are we aware
2 of any legal authority supporting this novel proposition.

3 In any event, even if one or more of Boyce and Sayer's
4 voidness arguments were to rise to the level of a jurisdictional
5 issue, Boyce and Sayer needed to raise them, and prevail on them,
6 either in the original action or on direct appeal from the
7 original action. The Montana Supreme Court does not permit
8 litigants to collaterally attack prior final judgments based on
9 jurisdictional grounds when they had a full and fair opportunity
10 to raise them in the original action or on direct appeal from the
11 original action. Bragg, 993 P.2d at 666; see also Searight v.
12 Cimino, 777 P.2d 335, 337 (Mont. 1989). As stated in Searight:

13 "Once there has been full opportunity to present an
14 issue for judicial decision in a given proceeding,
15 including those issues that pertain to a court's
16 jurisdiction, the determination of the court in that
proceeding must be accorded finality as to all issues
raised or which fairly could have been raised, else
judgments might be attacked piecemeal and without end."

17 Id. (emphasis in original) (quoting Wellman v. Wellman 643 P.2d
18 573, 575 (Mont. 1982)).

19 The record in this appeal reflects that Boyce and Sayer had
20 ample opportunity to raise their voidness arguments in the
21 District Court. They also could have raised them in a direct
22 appeal following the entry of the District Court's July 2012
23 final judgment. In accordance with Bragg, Searight and Wellman,
24 we cannot permit Boyce and Sayer to proceed with these voidness
25 arguments now, in a collateral attack on the District Court's
26 judgment.

27 Boyce and Sayer make two additional arguments why the
28 bankruptcy court erred in disallowing their claim. First, they

1 assert that the Missoula County District Court judgment should
2 not have been given preclusive effect because the District Court
3 violated their constitutional right to trial by jury. This
4 argument is devoid of merit on its face. All of the substantive
5 issues in the state court lawsuit were resolved either by summary
6 judgment or by judgment on the pleadings. As a result, there
7 were no fact findings made and, hence, no need for or
8 constitutional right to a trial by jury.

9 Second, Boyce and Sayer contend that Samson's claim
10 objection should have been overruled because Samson failed to
11 prove that the claim should be disallowed under any of enumerated
12 grounds set forth in § 502(b). This contention is simply wrong.
13 As its very first ground for disallowance, § 502(b)(1) states in
14 relevant part that the bankruptcy court should disallow a claim
15 to the extent that it is "unenforceable against the debtor . . .
16 under any agreement or applicable law." In this instance, the
17 reference to applicable law requires us to look at whether Boyce
18 and Sayer had a right to payment under Montana law. See
19 generally Butner v. United States, 440 U.S. 48, 55 (1979). And,
20 as we have explained above, under Montana law, Boyce and Sayer
21 did not have a right to payment in light of the Missoula County
22 District Court's binding determination rejecting all of Boyce and
23 Sayer's third party claims against Moss.

24 In sum, none of Boyce and Sayer's arguments persuade us that
25 the bankruptcy court erred when it disallowed their proof of
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1 claim.⁵

2 Finally, we also conclude that the bankruptcy court did not
3 err when it denied Boyce and Sayer's motion to remove void
4 judgment. We agree with the bankruptcy court that, because Boyce
5 and Sayer in essence sought declaratory relief and a
6 determination of the parties' respective interests in the Gerald
7 Avenue residence, Boyce and Sayer should have sought this relief
8 by commencing an adversary proceeding. See Rule 7001(2), (9);
9 Expeditors Int'l of Wash., Inc. v. Citicorp N. Am., Inc.
10 (In re Colortran, Inc.), 218 B.R. 507, 510-11 (9th Cir. BAP
11 1997). We also agree with the bankruptcy court that, in the
12 alternative, Boyce and Sayer were not entitled to the relief
13 requested in this motion because the Missoula County District
14 Court ruling that Boyce and Sayer sought "removal" of was not
15 void as asserted. We already have addressed and rejected, above,
16 all of Boyce and Sayer's voidness arguments. No purpose would be
17 served by reiterating that analysis.

18 **CONCLUSION**

19 For the reasons set forth above, we AFFIRM the bankruptcy
20 court's disallowance of Boyce and Sayer's claim and the
21 bankruptcy court's denial of their motion to remove void
22 judgment.

26 ⁵Because we have affirmed the bankruptcy court's
27 disallowance of the claim on the basis of claim preclusion, we do
28 not express any opinion on the bankruptcy court's alternate
theories of issue preclusion and the Rooker-Feldman doctrine.