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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NOT FOR PUBLICATION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. | CC-16-1121-FMcTa |
| |) | | |
| MBE DIGITAL, INC., |) | Bk. No. | 2:12-bk-34701-BR |
| |) | | |
| Debtor. |) | | |
| _____ |) | | |
| ADESORN HEMARATANATORN, |) | | |
| |) | | |
| Appellant, |) | | |
| |) | | |
| v. |) | MEMORANDUM* | |
| |) | | |
| DAVID J. PASTERNAK, |) | | |
| |) | | |
| Appellee. |) | | |
| _____ |) | | |

Argued and Submitted on October 21, 2016
at Pasadena, California

Filed - November 9, 2016

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

Honorable Barry Russell, Bankruptcy Judge, Presiding

Appearances: Clark Rivera argued on behalf of Appellant Adesorn Hemaratanatorn; Alan Wayne Forsley of Fredman Lieberman Pearl LLP argued on behalf of Appellee David J. Pasternak.

Before: FARIS, McKITTRICK,** and TAYLOR, 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 8024-1.

** The Honorable Peter C. McKittrick, United States Bankruptcy Judge for the District of Oregon, sitting by designation.

1 **INTRODUCTION**

2 Appellant Adesorn Hemaratanatorn appeals from the bankruptcy
3 court's denial of his motion to vacate the California superior
4 court's award of fees and costs to appellee David J. Pasternak,
5 the court-appointed receiver for debtor MBE Digital, Inc. He
6 argues, among other things, that the award violated the automatic
7 stay of § 362¹ and intruded upon the bankruptcy court's exclusive
8 jurisdiction under §§ 503 and 543. We disagree; there was no
9 stay violation because the fees and costs were levied against
10 Mr. Hemaratanatorn and others, not against the debtor or its
11 estate, and the bankruptcy petition did not divest the superior
12 court of jurisdiction over the fee award. Accordingly, we
13 AFFIRM.

14 **FACTUAL BACKGROUND**

15 MBE is a digital printing corporation that was formed by
16 Mr. Hemaratanatorn, Michael Hellyar, and Brian Rayner. This case
17 arises from the infighting among these three shareholders and
18 others.

19 In 2009, Mr. Hellyar's wife, Annette Hellyar, filed for
20 divorce. In the dissolution proceedings, Mrs. Hellyar contended
21 that Mr. Hellyar's interest in MBE was a community asset.
22 Mr. Hellyar disputed this claim and sought declaratory relief to
23 establish his rights and to determine the rights of Mrs. Hellyar,
24 Mr. Hemaratanatorn, Mr. Rayner, and Mr. Rayner's girlfriend,
25

26 ¹ Unless 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.

1 Cindy Lujan.

2 Mr. Hemaratanatorn then alleged that Mrs. Hellyar,
3 Mr. Rayner, and Ms. Lujan conspired to wrest control of MBE away
4 from him and Mr. Hellyar and loot the business. Mr. Hellyar and
5 Mr. Hemaratanatorn brought a shareholder's derivative action to
6 establish their ownership interests in MBE. They also filed an
7 ex parte application for the appointment of a receiver. Although
8 the superior court was hesitant to appoint a receiver and
9 suggested less drastic alternatives, in August 2010, it appointed
10 Mr. Pasternak as receiver for MBE. The superior court ordered
11 that MBE was responsible for payment of Mr. Pasternak's fees and
12 costs.

13 Initially, Mr. Pasternak was only charged with reviewing
14 MBE's records. Then, in December 2010, Mr. Hemaratanatorn filed
15 an ex parte application requesting that Mr. Pasternak be given
16 full powers over MBE. He alleged that Mrs. Hellyar, Mr. Rayner,
17 and Ms. Lujan had converted MBE's business to a new company,
18 BMR Digital.

19 The superior court granted Mr. Pasternak full and exclusive
20 power, duty, and authority to administer and manage all of MBE's
21 business affairs. Mr. Pasternak was authorized to take
22 possession of MBE's records, assets, and property.

23 In early 2011, Mr. Pasternak requested that the superior
24 court include BMR in the receivership, alleging that BMR had
25 siphoned off significant funds from MBE and failed to turn over
26 MBE's records. The superior court granted the request.

27 Mr. Pasternak reported that MBE owed significant debts,
28 that he had not been able to reduce MBE's financial obligations,

1 and that he was defending a number of lawsuits against MBE. By
2 then, Mr. Pasternak had incurred over \$250,000 in unpaid fees and
3 costs.

4 In August 2011, Mr. Rayner and Ms. Lujan filed a motion
5 seeking to terminate the receivership (or, in the alternative, to
6 direct Mr. Pasternak to file for bankruptcy on behalf of MBE),
7 arguing that MBE was losing money and incurring debts it could
8 never satisfy. Mr. Pasternak and Mr. Hellyar opposed the
9 motion.²

10 In November 2011, Mr. Rayner and Ms. Lujan again filed a
11 motion to terminate the receivership. This time, Mr. Pasternak
12 supported termination because he had not received compensation or
13 reimbursement of costs and the matter was a significant strain on
14 his office. But Mr. Hellyar and Mr. Hemaratanatorn opposed the
15 second motion and asserted that MBE was a profitable and viable
16 company. The superior court denied the motion to terminate the
17 receivership because it wanted Mr. Pasternak to continue serving
18 as receiver during the upcoming trial.

19 By December 2011, Mr. Pasternak's fees and costs totaled
20 \$417,073.85, and he owed other professionals over \$90,000. He
21 informed the superior court that none of his fees had been paid
22 due to lack of funds in the estate and that he could not
23 "continue to serve in this matter any longer unless the parties
24 provide for the payment of the receivership's substantial unpaid
25 costs of administration." In late December 2011, he informed the

26
27 ² The state court record does not include a formal ruling on
28 the August 2011 request. Presumably, the superior court denied
the motion.

1 superior court that he "will ask the court to hold all of the
2 individual parties jointly and severally responsible for the
3 unpaid receivership costs of administration."

4 After a bifurcated trial on the equitable claims in February
5 2012, the superior court ordered that, upon payment of \$250,000
6 to Mr. Pasternak, the receivership would terminate and control of
7 MBE would revert to Mr. Hellyar and Mr. Hemaratanatorn.

8 In May 2012, Mr. Pasternak informed the superior court that
9 he had not received the \$250,000 payment; and so the receivership
10 continued.

11 On July 18, 2012, MBE, through Mr. Hellyar, filed a
12 voluntary chapter 11 petition without Mr. Pasternak's knowledge
13 or consent.³ Mr. Pasternak immediately turned over custody,
14 possession, and control of MBE's business to MBE.

15 In September 2012, Mr. Pasternak filed in the superior court
16 a final report and account and a motion for fees and costs ("Fee
17 Motion"). He stated that his total unpaid fees and costs
18 exceeded \$535,000 and that other professionals' fees exceeded
19 \$90,000. Mr. Pasternak requested that the superior court hold
20 all individual parties jointly and severally liable for the
21 receivership fees and costs, "because all of them are or claimed
22 to be owners of the receivership business, and this receivership
23 thereby operated that business for their benefit during this
24 receivership. This request is not a surprise because I have
25 repeatedly stated my intention to make this request in my

26
27 ³ On February 21, 2013, upon motion by the United States
28 Trustee, the bankruptcy court converted MBE's chapter 11 case to
one under chapter 7.

1 previously filed and served interim reports."

2 Mr. Hellyar and Mr. Hemaratanatorn opposed the final report.
3 In particular, Mr. Hemaratanatorn proclaimed his innocence and
4 asserted that Mr. Pasternak's conduct may have hurt MBE as much
5 as (or more than) the actions of Mr. Rayner, Ms. Lujan, and
6 Mrs. Hellyar.

7 In November 2012, the superior court approved
8 Mr. Pasternak's final report and account. It issued an order
9 ("Fee Order") determining that Mr. Hemaratanatorn, Mr. Rayner,
10 Ms. Lujan, Mr. Hellyar, and Mrs. Hellyar were jointly and
11 severally liable for receivership fees and costs totaling
12 \$626,244.11. The superior court also ruled that the individual
13 parties "jointly and severally shall defend and indemnify the
14 Receiver against any claims, demands, debts, etc. which may arise
15 from the receivership." The Fee Order discharged Mr. Pasternak
16 and exonerated his bond.

17 In May 2014, the California Court of Appeals upheld the Fee
18 Order. The appellate court held (among other things) that
19 Mr. Pasternak's fees were reasonable; there was no
20 misadministration; and Mr. Hemaratanatorn and Mr. Hellyar were
21 jointly and severally liable for the receivership's fees and
22 costs.

23 On February 9, 2016, about four years after MBE filed for
24 bankruptcy and nearly two years after the California Court of
25 Appeals affirmed the Fee Order, Mr. Hemaratanatorn filed a motion
26 in the bankruptcy court to vacate the superior court's Fee Order
27 ("Motion to Vacate"). He argued (among other things) that, at
28 the time MBE filed for bankruptcy in July 2012, "the automatic

1 stay was in place and the state court was divested of
2 jurisdiction to rule upon the Receiver's administration of the
3 estate, discharge, and fees."

4 After a hearing, the bankruptcy court denied the Motion to
5 Vacate. It held that the Fee Order did not violate the automatic
6 stay and, as a result, the Fee Order was binding on the
7 bankruptcy court.

8 Mr. Hemaratanatorn timely appealed.

9 JURISDICTION

10 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.
11 §§ 1334 and 157(b) (1) and (2) (A). We have jurisdiction under
12 28 U.S.C. § 158.

13 ISSUES

14 (1) Whether the Fee Order violated the automatic stay.

15 (2) Whether §§ 503 and 543 divested the superior court of
16 jurisdiction to decide the Fee Motion.

17 (3) Whether the Fee Order had preclusive effect.

18 STANDARDS OF REVIEW

19 We review the bankruptcy court's conclusions of law de novo
20 and its findings of fact for clear error. Hansen v. Moore
21 (In re Hansen), 368 B.R. 868, 874 (9th Cir. BAP 2007). "De novo
22 review requires that we consider a matter anew, as if no decision
23 had been made previously." Francis v. Wallace (In re Francis),
24 505 B.R. 914, 917 (9th Cir. BAP 2014) (citation omitted). A
25 bankruptcy court clearly errs if its findings were illogical,
26 implausible, or "without support in inferences that may be drawn
27 from the facts in the record." United States v. Hinkson,
28 585 F.3d 1247, 1262-63 & n.21 (9th Cir. 2009) (en banc).

1 We review de novo the bankruptcy court's determination as to
2 whether the automatic stay provisions of section 362 have been
3 violated. Palm v. Klapperman (In re Cady), 266 B.R. 172, 178
4 (9th Cir. BAP 2001), aff'd, 315 F.3d 1121 (9th Cir. 2003)
5 (citation omitted); Advanced Ribbons & Office Prods., Inc. v.
6 U.S. Interstate Distrib., Inc. (In re Advanced Ribbons & Office
7 Prods., Inc.), 125 B.R. 259, 262 (9th Cir. BAP 1991) (the scope
8 of the automatic stay is "a legal issue which we review de
9 novo").

10 Similarly, we review de novo questions of jurisdiction. See
11 McCowan v. Fraley (In re McCowan), 296 B.R. 1, 2 (9th Cir. BAP
12 2003) ("Whether a court has subject matter jurisdiction is a
13 question of law that we review de novo."); Odd-Bjorn Huse v.
14 Huse-Sporssem, A.S. (In re Birting Fisheries, Inc.), 300 B.R. 489,
15 497 (9th Cir. BAP 2003) ("Subject matter jurisdiction is a
16 question of law.").

17 "[T]he availability of issue preclusion is reviewed de
18 novo." Lopez v. Emergency Serv. Restoration, Inc. (In re Lopez),
19 367 B.R. 99, 103 (9th Cir. BAP 2007) (citation omitted).

20 DISCUSSION

21 **A. The Fee Order did not violate the automatic stay.**

22 Mr. Hemaratanatorn contends that the Fee Order violated the
23 automatic stay, because the filing of MBE's bankruptcy petition
24 operated to stay all superior court proceedings, even the
25 superior court's consideration of the Fee Motion. We disagree.

26 Mr. Hemaratanatorn argues that the automatic stay precluded
27 a broad range of acts, including the superior court's decision on
28 the Fee Motion. He says that § 362(a)(3), which prohibits "any

1 act to obtain possession of property of the estate or of property
2 from the estate or to exercise control over property of the
3 estate" precluded the superior court from entering the Fee Order.

4 Mr. Hemaratanatorn misapprehends the nature of the automatic
5 stay, or the scope of the Fee Order, or both. The Fee Order was
6 not directed toward MBE or its estate, but rather toward the
7 individual shareholders and others. In other words, the Fee
8 Order did not concern "the property of the estate."

9 It is well settled that the automatic stay is applicable
10 only to the debtor and the estate and does not protect
11 nondebtors.

12 [S]ection 362(a) does not stay actions against
13 guarantors, sureties, corporate affiliates, or other
14 non-debtor parties liable on the debts of the
15 debtor. . . . Similarly, the automatic stay does not
16 protect the property of parties such as officers of the
debtor, even if the property in question is stock in
the debtor corporation, and even if that stock has been
pledged as security for the debtor's liability.

17 Boucher v. Shaw, 572 F.3d 1087, 1092-93 (9th Cir. 2009) (internal
18 citations and quotation marks omitted); see Solidus Networks,
19 Inc. v. Excel Innovations, Inc. (In re Excel Innovations, Inc.),
20 502 F.3d 1086, 1095 (9th Cir. 2007) ("we have consistently held
21 that the automatic stay does not apply to suits against
22 non-debtors"); In re Advanced Ribbons & Office Prod., Inc.,
23 125 B.R. at 263 ("The automatic stay of section 362(a) protects
24 only the debtor, property of the debtor or property of the
25 estate. It does not protect non-debtor parties or their
26 property.").

27 Put simply, Mr. Hemaratanatorn's position rests on a false
28 premise: that the automatic stay applies to **any** action relating

1 in any way to the debtor. However, the automatic stay is not so
2 broad and is limited to the situations enumerated in § 362(a).
3 In this case, the Fee Order did not concern "the property of the
4 estate" and did not affect MBE's bankruptcy estate. There was no
5 violation of the automatic stay.⁴

6 Mr. Hemaratanatorn argues that the Fee Order impacted the
7 property of MBE's bankruptcy estate because it "operates to
8 deprive the Debtor of any choses in action arising from Receiver
9 misconduct, and such choses in action are, legally and
10 undeniably, property of the bankruptcy estate." He also contends
11 that the superior court, "by imposing a huge derivative liability
12 on MBE's shareholders, at the same time created an enormous
13 indemnity liability on the part of MBE towards those
14 shareholders, and this sort of action readily predicts to
15 complicate the Debtor's prospects for emerging from bankruptcy."

16 But, as Mr. Pasternak's counsel agreed at oral argument, the
17 Fee Order is not binding on the bankruptcy trustee and does not
18 affect the estate's rights. Whatever surcharge rights exist
19

20 ⁴ We have recognized that the bankruptcy court may extend
21 the automatic stay to nondebtors under the "unusual
22 circumstances" doctrine, where the interests of the debtor and
23 the nondebtor are inextricably interwoven. In re Ripon Self
24 Storage, LLC, BAP No. EC-10-1325-HKiD, 2011 WL 3300087, at *6
25 (9th Cir. BAP Apr. 1, 2011). However, this "extension" is really
26 "an injunction issued by the bankruptcy court after a hearing
27 where it is established that unusual circumstances are needed to
28 protect the administration of the bankruptcy estate. Thus, any
extension of the automatic stay to nondebtors does not occur
automatically but requires the filing of an adversary proceeding
requesting the bankruptcy court to act under § 105(a)." Id.
(citations omitted). The bankruptcy court did not extend the
protections of the automatic stay to any of the nondebtors, and
Mr. Hemaratanatorn did not appeal on this basis.

1 under § 543(c) (3) are still available to the estate. See
2 § 543(c) (3) (after notice and a hearing, the court shall
3 “surcharge such custodian . . . for any improper or excessive
4 disbursement”). The Fee Order imposed significant
5 liability upon the individual shareholders, but it did not impose
6 any liability upon, or take any rights away from, MBE.⁵ See
7 Boucher, 572 F.3d at 1092-93.

8 Therefore, the Fee Order did not violate the automatic
9 stay.⁶

10 **B. Neither § 503 nor § 543 deprived the superior court of**
11 **jurisdiction to consider and enter the Fee Order.**

12 Mr. Hemaratanatorn argues that, when MBE filed its
13 bankruptcy petition, the superior court immediately lost
14 jurisdiction to consider and approve the Fee Motion. He is
15

16
17 ⁵ If the Fee Order barred any claims by the bankruptcy
18 trustee or the estate against Mr. Pasternak or his surety, the
19 Fee Order would be void, but only to that extent.
20 Mr. Pasternak’s counsel so agreed at oral argument.

21 ⁶ Mr. Hemaratanatorn argues that the bankruptcy filing
22 immediately suspended the shareholder’s derivative action
23 (because the shareholders then allegedly lacked standing to act
24 on behalf of MBE), thus divesting Mr. Pasternak of his ability to
25 take any action in the superior court litigation. Mr. Pasternak
26 correctly states that Mr. Hemaratanatorn did not present this
27 issue to the bankruptcy court. We will not consider arguments
28 raised for the first time on appeal. See Ezra v. Seror
(In re Ezra), 537 B.R. 924, 932 (9th Cir. BAP 2015).

25 Mr. Hemaratanatorn contends that his argument concerns
26 subject matter jurisdiction, which can be raised at any time. As
27 we explain herein, the bankruptcy case did not affect the
28 superior court’s subject matter jurisdiction over Mr. Pasternak’s
compensation taxed against nondebtors and could not preclude its
consideration of the Fee Motion.

1 mistaken.

2 Mr. Hemaratanatorn's argument rests on a false premise: that
3 §§ 503(b)(3)(E) and 543(c)(2) are jurisdictional statutes that
4 divest other courts of jurisdiction. He argues, without
5 authority, that "[s]ection 543 . . . grants the bankruptcy court
6 exclusive jurisdiction to determine the reasonableness of the
7 receiver's unpaid fees and costs and to order their
8 payment"

9 Mr. Hemaratanatorn uses the term "jurisdiction" all too
10 loosely. The bankruptcy court's jurisdiction is governed by
11 28 U.S.C. §§ 157 and 1334. Nothing in §§ 503 or 543 or
12 Rule 6002⁷ purports to confer exclusive jurisdiction on the
13 bankruptcy court or otherwise limit the jurisdiction of a state
14 court.

15 Our holding is consistent with the Supreme Court's
16 jurisprudence that courts should not read a jurisdictional
17 limitation into a statute where none exists:

18 **when Congress does not rank a statutory limitation on**
19 **coverage as jurisdictional, courts should treat the**
20 **restriction as nonjurisdictional in character.**
21 Applying that readily administrable bright line to this
22 case, we hold that the threshold number of employees
for application of Title VII is an element of a
23 plaintiff's claim for relief, not a jurisdictional
24 issue.

23 Arbaugh v. Y&H Corp., 546 U.S. 500, 516 (2006) (emphasis added)
24 (construing 42 U.S.C. § 2000e).

25 Sections 503 and 543 permit a bankruptcy court to decide fee
26

27 ⁷ Rule 6002 is a procedural rule that could not affect the
28 jurisdiction of any court.

1 applications by custodians but do not grant it jurisdiction, let
2 alone exclusive jurisdiction. Following the Supreme Court's
3 bright-line test in Arbaugh, we note that §§ 503 and 543 do "not
4 speak in jurisdictional terms or refer in any way to the
5 jurisdiction of the [bankruptcy] courts." Id. at 515.

6 Moreover, Mr. Hemaratanatorn overlooks the fact that § 503
7 concerns "administrative expenses." Although not explicitly
8 defined, administrative expenses are important to the extent
9 necessary to determine which claims against the bankruptcy estate
10 have priority under § 507. See § 507(a)(2). In the present
11 case, the fee award was not levied against MBE's bankruptcy
12 estate and therefore does not concern "administrative expenses"
13 as understood by the Bankruptcy Code.

14 Mr. Hemaratanatorn cites Moore v. Scott, 55 F.2d 863 (9th
15 Cir. 1932), for the proposition that the bankruptcy court has
16 exclusive jurisdiction to consider a receiver's fees, even when
17 the receiver was appointed prebankruptcy. Moore's status as
18 binding authority is questionable; it was decided five decades
19 before Congress restructured the jurisdiction of the bankruptcy
20 courts in 1984. Further, Moore did not consider the issue at bar
21 here: whether a nonbankruptcy court may enter a fee award against
22 **nondebtors**. Rather, it held that, once "a bankruptcy has
23 supervened, no other court has the power or authority partially
24 to administer or to deplete **the estate**, by **disposing of or**
25 **impressing a lien upon it** or upon any part thereof - valid prior
26 liens, of course, excepted - not even in favor of its own
27 receivers." 55 F.2d at 865 (emphases added). Similarly, other
28 authorities cited by Mr. Hemaratanatorn are premised on actions

1 against a bankruptcy estate. See, e.g., Gross v. Irving Tr. Co.,
2 289 U.S. 342, 344 (1933) (holding that the state court cannot
3 determine a receiver's compensation, because, "[u]pon
4 adjudication of bankruptcy, title to all the property of the
5 bankrupt, wherever situated, vests in the trustee as of the date
6 of filing the petition in bankruptcy"); In re China Village, LLC,
7 Case No. 10-60373-ASW, 2012 WL 32684, at *5 (Bankr. N.D. Cal.
8 Jan. 4, 2012) ("decisions affecting the [bankruptcy estate's]
9 property fall under the domain of this Court").

10 In any event, Mr. Hemaratanatorn lacks standing to enforce
11 § 543 on behalf of MBE. The trustee is the representative of the
12 bankruptcy estate and has exclusive standing to enforce the
13 estate's rights. See § 323(a) ("The trustee in a case under this
14 title is the representative of the estate."); Ahcom, Ltd. v.
15 Smeding, 623 F.3d 1248, 1250 (9th Cir. 2010) ("When the trustee
16 does have standing to assert a debtor's claim, that standing is
17 exclusive and divests all creditors of the power to bring the
18 claim."); Smith v. Arthur Andersen LLP, 421 F.3d 989, 1002 (9th
19 Cir. 2005) ("[u]nder the Bankruptcy Code the trustee stands in
20 the shoes of the bankrupt corporation and has standing to bring
21 any suit that the bankrupt corporation could have instituted had
22 it not petitioned for bankruptcy").

23 Accordingly, the superior court had jurisdiction to enter
24 the Fee Order.⁸

25
26 ⁸ Mr. Hemaratanatorn also argues that Mr. Pasternak violated
27 § 543(b) and Rule 6002 by failing to provide the bankruptcy court
28 with a full accounting. We make no determination as to this
issue, as it is not relevant to this appeal (and

(continued...)

1 **C. The bankruptcy court had no authority to review the superior**
2 **court's Fee Order.**

3 Having determined that the Fee Order did not violate the
4 automatic stay or trespass on the bankruptcy court's exclusive
5 jurisdiction, we turn to Mr. Hemaratanatorn's argument that he
6 should be able to argue his position to the bankruptcy court
7 because the Fee Order was unjust.⁹

8 The bankruptcy court determined that, because the superior
9 court had the authority to enter the Fee Order, the Rooker-
10 Feldman doctrine¹⁰ and preclusion principles prevented it from
11 reexamining the substance of the Fee Order. We agree.

12 Mr. Hemaratanatorn's argument is based on a false premise:
13 that the Rooker-Feldman doctrine is inapplicable because
14 Mr. Pasternak "and the state court flagrantly violated the
15 exclusive subject matter jurisdiction of the bankruptcy court and
16 the result was an order which violates the Supremacy Clause and
17 should be vacated."

18 However, as discussed above, the Fee Order did not intrude
19 upon the bankruptcy court's jurisdiction, nor did it violate the
20

21 ⁸(...continued)
22 Mr. Hemaratanatorn lacks standing to raise this issue).

23 ⁹ The situation would be different if MBE's chapter 7
24 trustee were asserting claims under § 543 or otherwise. As we
25 state above, we do not think that the superior court's Fee Order
26 is binding on the trustee or deprives the trustee of any rights
27 against Mr. Pasternak or his surety.

28 ¹⁰ The Rooker-Feldman doctrine arose from the United States
Supreme Court decisions in District of Columbia Court of Appeals
v. Feldman, 460 U.S. 462 (1983), and Rooker v. Fidelity Trust
Co., 263 U.S. 413 (1983).

1 automatic stay.

2 The bankruptcy court had no authority to review the Fee
3 Order. The Full Faith and Credit Act, which implemented the
4 Constitution's Full Faith and Credit Clause, requires that we
5 accord the decisions of state courts "the same full faith and
6 credit . . . as they have by law or usage in the courts of such
7 State . . . from which they are taken." 28 U.S.C. § 1738; see
8 Migra v. Warren City Sch. Dist. Bd. of Educ., 465 U.S. 75, 80-81
9 (1984). Neither the bankruptcy court nor this Panel can review
10 the decisions of the superior court. "[T]he Rooker-Feldman
11 doctrine provides that the United States Supreme Court is the
12 only federal court that may review an issue previously determined
13 or 'inextricably intertwined' with the previous action in state
14 court between the same parties." In re Birting Fisheries, Inc.,
15 300 B.R. at 498; see Noel v. Hall, 341 F.3d 1148, 1158 (9th Cir.
16 2003) ("A federal district court dealing with a suit that is, in
17 part, a forbidden de facto appeal from a judicial decision of a
18 state court must refuse to hear the forbidden appeal. As part of
19 that refusal, it must also refuse to decide any issue raised in
20 the suit that is 'inextricably intertwined' with an issue
21 resolved by the state court in its judicial decision.").

22 Accordingly, the bankruptcy court did not have the authority
23 to allow Mr. Hemaratanatorn to relitigate what the California
24 state courts have already decided. It properly declined to
25 vacate the Fee Order.

26 **CONCLUSION**

27 For the reasons set forth above, the California superior
28 court had authority to decide the Fee Motion, and its decision

1 did not violate the automatic stay or any jurisdictional statute.

2 Therefore, we AFFIRM.

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