

26-2285

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

IN RE:	)	Bankruptcy Case No. 23-03639-CL7
	)	
RODRIGO AGUIRRE,	)	BAP Case No. SC-25-1135
	)	
Debtor.	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

Appeal from the Ninth Circuit Bankruptcy Appellate Panel
Brand, Lafferty, and Niemann, Bankruptcy Judges, Presiding

APPELLANT’S OPENING BRIEF

DOUGLAS JAFFE, ESQ. Bar No. 170354
LAW OFFICES OF DOUGLAS JAFFE
501 West Broadway, Suite 800
San Diego, California 92101
Telephone: (619) 400-4945
Email: Dougjaffelaw@gmail.com

Attorneys for Appellant Mario Montes Mora

DISCLOSURE STATEMENT

Appellant is an individual.

There are no bankruptcy debtors not included in the caption.

LAW OFFICES OF DOUGLAS JAFFE

By: s/ Douglas Jaffe
DOUGLAS JAFFE, ESQ.
501 West Broadway, Suite 800
San Diego, California 92101
Telephone: (619) 400-4945
Email: Dougjaffelaw@gmail.com

Attorneys for Appellant Mario Montes Mora

TABLE OF CONTENTS

	PAGE
DISCLOSURE STATEMENT	2
TABLE OF AUTHORITIES	5
INTRODUCTION/SUMMARY OF ARGUMENT.....	7
JURISDICTIONAL STATEMENT	7
STANDARD OF REVIEW	8
ISSUES ON APPEAL	8
STATEMENT OF FACTS	9
THE EFFECTIVENESS OF THE SPOUSAL WAIVER	12
EQUITABLE ESTOPPEL	16
A. Representation Or Concealment	17
B. Knowledge	17
C. To A Party Ignorant Of The Truth	18
D. Intention	18
E. Inducement	19
CONCLUSION	21
CERTIFICATE OF COMPLIANCE	22
STATEMENT OF RELATED CASES	23
CERTIFICATE OF SERVICE	24
ADDENDUM	25

TABLE OF AUTHORITIES

CASES	PAGE
<i>Barclay v. Mackenzie (In re AFI Holding, Inc.)</i> , 525 F.3d 700, 702 (9th Cir. 2008)	8
<i>Cisneros v. Kim (In re Kim)</i> , 257 B.R. 680, 684 (9th Cir. BAP 2000)	8
<i>Crestline Mobile Homes Manufacturing Co. v.</i> <i>Pacific Finance Corp.</i> , 54 Cal.2d 773, 778-779	18
<i>Guevarra v. Whatley (In re Guevarra)</i> , 638 B.R. 120 (B.A.P. 9th Cir. 2022)	16
<i>In re Canino</i> , 185 B.R. 584 (B.A.P. 9 th Cir. 1995)	7, 13-15
<i>In re Geisenheimer</i> , 530 B.R. 747, 2015 WL 2137693 (Bankr.E.D.Cal. 2015)	6, 12-13
<i>In re Gomez</i> , 530 B.R. 751 (Bankr. E.D. Cal 2015)	6, 12-15
<i>In re Gonzalez</i> , 620 B.R. 296 (Bankr. C.D. Cal. 2019)	16
<i>In re Lua</i> , 529 B.R. 766 (Bankr. C.D. Cal. 2015)	18, 19
<i>Klein v. Good (In re Good)</i> 2018 Bankr. LEXIS 3609 (9th Cir. BAP Nov. 15, 2018)	14
<i>Lantzy v. Centex Homes</i> , 31 Cal.4th 363, 384 (2003)	18
<i>Mora, et. al. v. Aguirre, et. al.</i> , San Diego Superior Court Case No. 37-2019-00002815-CU-BC-CTL	9

<i>Munding vs. Masingale</i> , 108 F.4th 1195 (9th Cir. 2024)	13
<i>R.D. Reeder Lathing Company, Inc. v. Allen</i> , 66 Cal.2d 373 (1967)	19
<i>Taylor v. Freeland & Kronz</i> , 503 U.S. 638 (1992)	14

STATUTES

C.C.P. § 703.140	Passim
------------------------	--------

OTHER

F.R.Bank.P. 9024	6, 9, 12
F.R.Bank.P. 8002	6
F.R.Civ.P. 60	Passim

INTRODUCTION/SUMMARY OF THE ARGUMENT

A decision from this Court is needed regarding when a spousal waiver in bankruptcy is effective.

The Court in *Geisenheimer* expressly held, “What constitutes an effective waiver under section 703.140(a)(2) of the California Code of Civil Procedure? An effective waiver must be a written expression of both the filing and non-filing spouses' intent to forego the right to claim the exemptions in section 704.010 *et seq.* of the California Code of Civil Procedure, and both spouses must evidence an intent to be bound by signing the written waiver or by providing other unequivocal, written expression of assent.” *In re Geisenheimer*, 530 B.R. 747, 2015 WL 2137693 (Bankr.E.D.Cal. 2015). The Debtor’s spousal waiver in this case meets those requirements.

The Trial Court and the BAP found that a spousal waiver in bankruptcy is not effective if the debtor makes a mistake of law regarding the spousal waiver (while represented by counsel), or the debtor is allegedly confused regarding the need for the spousal waiver (again despite have his own independent attorney). That is what F.R.Bankr.P. 9024/F.R.Civ.P. 60 (“Rule 60”) are for, and the Debtor Rodrigo Aguire (“Debtor”) did not make that motion. There was no determination by the Trial Court and/or analysis by the BAP regarding whether the Debtor qualified for relief pursuant to Rule 60. The Court in *In re Gomez*, 530 B.R. 751

(Bankr. E.D. Cal 2015) found that compliance with Rule 60 is required when seeking to withdraw a spousal waiver regarding a homestead exemption.

The decisions of the Trial Court and the BAP in this action would improperly allow debtors to claim a spousal waiver is effective regardless of whether the waiver is legally allowed (*See, In re Canino*, 185 BR 584 (B.A.P. 9th Cir. 1995), while allowing a debtor to claim a spousal waiver is ineffective (without complying with Rule 60) if the waiver was not legally required.

This Court should find that the Debtor failed to make the necessary showing pursuant to Rule 60, and/or Trial Court improperly failed to apply equitable estoppel, and therefore Debtor's amended homestead exemption should not have been allowed.

In the alternative, the case should be remanded to the Trial Court for the hearing of a Rule 60 motion with an evidentiary hearing (with declarations from Debtor's wife and his former attorney, which have not been previously filed by the Debtor).

JURISDICTIONAL STATEMENT

The basis for jurisdiction for the U.S. Bankruptcy Court for the Southern District of California was 28 U.S.C. §1334.

The basis for jurisdiction for the Ninth Circuit Bankruptcy Appellate Panel (BAP) was 28 U.S.C. §158(d).

This Court of Appeals has jurisdiction over this appeal from the Ninth Circuit Bankruptcy Appellate Panel (BAP) pursuant to 28 U.S.C. § 158(d).

The date of entry of the judgment and order appealed from was April 2, 2026. *See*, 1-ER-2. The date of filing of the notice of appeal was April 10, 2026. *See*, 2-ER-314. The appeal was timely pursuant to FRAP 4 and F.R.Bank.P. 8002.

STANDARD OF REVIEW

The Bankruptcy Trial Court’s application of state exemption law is a question of statutory construction that is reviewed **de novo**. *See, Cisneros v. Kim (In re Kim)*, 257 B.R. 680, 684 (9th Cir. BAP 2000). “The scope of the statutory exemption is a question of law, which we review de novo.” *In re Bloom*, 839 F.2d 1376, 1378 (9th Cir. 1988).

De novo review is independent, with no deference given to the trial court’s conclusion. *See, Barclay v. Mackenzie (In re AFI Holding, Inc.)*, 525 F.3d 700, 702 (9th Cir. 2008).

ISSUES ON APPEAL

The issues presented on appeal are the following:

- 1) Whether Debtor's spousal waiver was effective, as Debtor chose to file a spousal waiver (while represented by counsel), and therefore Debtor had to properly seek to withdraw it;
- 2) Whether a spousal waiver binds a Debtor and the debtor's non-filing spouse absent relief timely and properly supported relief requested under F.R. Bankr.P. 9024/F.R.Civ.P. 60; and
- 3) Whether the Bankruptcy Court erred with regard to the doctrine of equitable estoppel.

STATEMENT OF FACTS

Prior to the filing of the Aguirre bankruptcy, Mora obtained a judgment against Aguirre in the State Court action known as *Mora, et. al. v. Aguirre, et. al.*, San Diego Superior Court Case No. 37-2019-00002815-CU-BC-CTL. *See*, 2-ER-207-209. Debtor received more than One Hundred Thousand Dollars (\$100,000) from Mora that was supposed to be used by Debtor for a joint seafood business venture between Mora and Debtor. Debtor kept the money for himself, and profited from seafood Debtor purchased and sold with Mora's money. Debtor agreed, by stipulating to the judgment by Mora, that Debtor committed fraud

against Mora. The judgment was recorded in the records of the San Diego Recorder which made Mora a secured creditor. *See*, 2-ER-207-209.

Debtor then filed bankruptcy to try and avoid paying the judgment. *See*, App. at 2-ER-253-313.

Debtor's bankruptcy schedules reflected that Debtor had an interest in a residential property located at 1939-41 Ensenada St. in Lemon Grove, California (the "Property"). *See*, 2-ER-262. Debtor transferred all his interest in the Property to non-parties Roberto Santiago and Sara Sampedro, allegedly with no transfer tax owed. *See*, 2-ER-69-70. Six months later, Santiago and Sampedro transferred their interest to Debtor along with Santiago and Sampedro as owners, again allegedly with no transfer tax owed. *See*, 2-ER-72.

Debtor, with the assistance of counsel, filed the Aguirre Spousal Waiver in his bankruptcy acknowledging and admitting that Debtor and his wife were not claiming the full homestead exemption regarding the Property. *See*, 2-ER-67. The Waiver expressly states, "MUTUAL WAIVER. Borth parties, by executing this agreement below, hereby waive their right to claim any state exemptions, other than those provided in California Code of Civil Procedure § 703.140(b), during the pendency of the chapter 7 bankruptcy of Rodrigo Aguirre filed in the U.S. Bankruptcy Court of the Southern District of California." . . . "RIGHT TO HAVE INDEPENDENT COUNSEL. Both parties acknowledge that they have been

informed of their right to consult an attorney regarding the effect of this waiver on them.” (Emphasis added). *See*, 2-ER-252. Debtor also filed an amended Schedule C which reflected that Debtor was not claiming the full homestead exemption regarding the Property. *See*, 2-ER-247-251.

Debtor attempted to convert the case to a Chapter 13 bankruptcy. *See*, 2-ER-245-246. The motion to convert relied on the Aguirre Spousal Waiver and no full homestead exemption. The Trustee and Mora opposed the motion to convert the case to a Chapter 13 bankruptcy. *See*, 2-ER-197-242. The motion to convert the case to Chapter 13 was denied by a published decision. *See*, 2-ER-190-196 .

Nearly nine months later, Debtor retained a new additional attorney and filed an amended exemption claiming a homestead exemption regarding the Property. *See*, 2-ER-182-189. Mora opposed the amended exemption. *See*, 2-ER-171-181. In response, Debtor did not include any declaration from his wife, and Debtor did not include any declaration from his other attorney who allegedly made a “mistake” regarding the Aguirre Spousal Waiver. *See*, 2-ER-36-170. Mora filed a Reply in support of the opposition to the amended exemption. *See*, 2-ER-31-35. The Trial Court stating, “Debtor and his wife executed and filed a mutual waiver of right to claim state exemptions (ECF No. 18). And that appears binding. The parties should come prepared to discuss whether a Rule 60 motion is required to withdraw the spousal waiver and change exemption schemes. *See* Fed. R. Civ. P.

60; Fed. R. Bankr. P. 9024; *In re Gomez*, 530 B.R. 751, 757–58 (Bankr. E.D. Cal. 2015).” *See*, 2-ER-30. Debtor filed an unauthorized Sur-Reply. *See*, 2-ER-28-29.

Debtor’s new additional attorney at oral argument on the exemption opposition acknowledged that Rule 60 applied to the request to withdraw the Aguire Spousal Waiver which withdrawal was needed in order to even consider the amended homestead exemption. *See*, Transcript at p.5, lines 10-21.

The Trial Court subsequently overruled the homestead exemption opposition and allowed the exemption, finding that Rule 60 did not apply.

THE EFFECTIVENESS OF THE SPOUSAL WAIVER

The Trial Court’s Order held that Debtor’s spousal waiver was not effective because the Bankruptcy Trial Court found it was not required. *See*, App. at 295.

That is not the standard for finding whether a spousal waiver is effective.

“A waiver under section 703.140(a)(2) has three elements: (1) both the bankruptcy debtor and the non-filing spouse must waive the right to claim the regular exemptions; (2) each waiver must be effective; and (3) the waiver must arise from a written instrument. *In re Geisenheimer*, 530 B.R. 747, 2015 WL 2137693 (Bankr.E.D.Cal.2015).” *In re Gomez*, 530 B.R. 751 (Bankr. E.D. Cal 2015). There is no dispute that elements (1) and (3) exist in this case.

With regard to the effectiveness of the Aguirre Spousal Waiver (element (2) above), the Court in *Geisenheimer* expressly held, “What constitutes an effective waiver under section 703.140(a)(2) of the California Code of Civil Procedure? An effective waiver must be a written expression of both the filing and non-filing spouses' intent to forego the right to claim the exemptions in section 704.010 *et seq.* of the California Code of Civil Procedure, and both spouses must evidence an intent to be bound by signing the written waiver or by providing other unequivocal, written expression of assent.” *In re Geisenheimer*, 530 B.R. 747, 2015 WL 2137693 (Bankr.E.D.Cal. 2015). The Aguirre Spousal Waiver is a written expression of Debtor and his spouse’s intent to forego the right to claim the exemptions in section 704.010 *et seq.* of the California Code of Civil Procedure, and Debtor and his spouse evidenced an intent to be bound by signing the Aguirre Spousal Waiver. Debtor was represented by counsel at the time he signed the Aguirre Spousal Waiver and therefore made a fully informed and voluntary waiver.

The Debtor chose to file a spousal waiver, while represented by counsel, and therefore Debtor had to properly seek to withdraw it. *See, In re Gomez*, 530 B.R. 751 (Bankr. E.D. Cal 2015). *In re Gomez* expressly found that compliance with Rule 60 is required when seeking to withdraw a spousal waiver regarding a homestead exemption. *Id.*

The Trial Court’s decision in this action would improperly allow debtors to claim a spousal waiver is effective regardless of whether the waiver is legally allowed (*See, In re Canino*, 185 BR 584 (B.A.P. 9th Cir. 1995), while allowing a debtor to claim a spousal waiver is ineffective (without complying with Rule 60) if the waiver was not legally required.

If no objection is raised to a debtor's list of exempt properties within the prescribed time limit, the claimed exemptions are rendered exempt, and their validity cannot be contested. *See, Munding vs. Masingale*, 108 F.4th 1195 (9th Cir. 2024); *See also, In re Canino*, 185 B.R. 584 (B.A.P. 9th Cir. 1995), [591], citing *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992); *Klein v. Good* (In re Good) 2018 Bankr. LEXIS 3609 (9th Cir. BAP Nov. 15, 2018).

Counsel for Debtor recognized at oral argument on Mora’s objections to the amended claim of exemption that Debtor had to comply with Rule 60 to withdraw Debtor’s spousal waiver. Counsel for Debtor stated, “And Gomez says that .. and it's almost a quote – the answer is that a spousal waiver binds the debtor and the debtor's nonfiling spouse, absent relief, under Civil Rule 60(b) on a showing of mistake, inadvertence, surprise, excusable neglect. **Fine. I think that that is correct**, but I also think that the same rationale would apply to any 60(b) motion, whether it's on the catchall on 60(b)(6), or whether it's on 60(b)(1) for mistake and like that.” *See*, Transcript at p.5, lines 10-21 (Emphasis added).

Debtor's position was that Rule 60(b)(6) as opposed to Rule 60(b)(1) applied to the Debtor's withdrawal of the Aguirre Spousal Waiver. The distinction had to do with the timing of the request by Debtor to withdraw the Aguirre Spousal Waiver as required by Rule 60(b)(c)(1). The Bankruptcy Trial Court improperly failed to apply any portion of Rule 60.

“While federal law authorizes a debtor to amend his claim of exemptions, it does not guarantee a debtor a homestead exemption or, for that matter, any exemption rights. *Owen*, 500 U.S. at 308, 111 S.Ct. 1833. Whether an amendment to the schedule of exemptions is a wholesale exchange of exemption schemes, trading the regular exemptions for the special bankruptcy exemptions or vice versa, or whether it is a mere reallocation or modification of the exemptions within the same exemption scheme already selected, the debtor's right to claim the exemptions in the amendment depends on whether California law recognizes such right.” *In re Gomez*, 530 B.R. 751, 756 (Bankr. E.D. Cal 2015). “Applying California's law of waiver, this court finds that absent relief for mistake (of fact or otherwise), inadvertence, surprise, or excusable neglect, or similar showing, a properly executed spousal waiver may not be withdrawn. California courts have long held that an effective waiver binds.” *Id.* at 757. This Court should make the same holding.

EQUITABLE ESTOPPEL

The facts in this case are similar to *In re Gonzalez*, 620 B.R. 296 (Bankr. C.D. Cal. 2019) which granted the objections to exemptions, including a homestead exemption. “The court holds that the California state law doctrine of equitable estoppel under the facts of this case bars Debtor from changing his election from exemptions under the California exemptions of C.C.P. § 703.140(b) to exemptions under the alternate regular California nonbankruptcy set of exemptions of C.C.P. §§ 704.730, 704.020, and 704.060(a)(1). For the following reasons, the court grants Trustee's Motion Objecting to Debtor's Homestead Exemption and disallows Debtor's claimed homestead exemption.”. *Id.* at 310-311.

The court in *Guevarra v. Whatley (In re Guevarra)*, 638 B.R. 120 (B.A.P. 9th Cir. 2022) noted that in *Gonzalez*, the debtor had affirmatively chosen between mutually exclusive exemptions and repeatedly advised the trustee of his election, which established the elements for equitable estoppel. The same is true with regard to Debtor in this action.

The doctrine of equitable estoppel applies to the Debtor in this case due to, without limitation, each of the following: (A) a representation or concealment of material facts; (B) made with knowledge, actual or virtual, of the facts; (C) to a party ignorant, actually and permissibly, of the truth; (D) with the intention, actual

or virtual, that the ignorant party act on it; and (E) that party was induced to act on it.

A. Representation Or Concealment

Debtor took the position, as reflected in his bankruptcy schedules and in litigation proceedings before this court, that he was claiming exemptions only pursuant to the California set of exemptions of C.C.P. § 703.140(b)(After previously claiming a homestead exemption pursuant to C.C.P. § 704.730). *See*, App. at 122-128.

Debtor also signed and filed the Aguirre Spousal Waiver.

Those representations support equitable estoppel regarding the amendment to Debtor's Schedule C exemptions.

B. Knowledge

Debtor had knowledge of the facts. Debtor took the position, as reflected in his bankruptcy schedules and in litigation proceedings before this court, that he was claiming exemptions only pursuant to the California set of exemptions of C.C.P. § 703.140(b)(After his admissions at his meeting and creditor and previously claiming a homestead exemption pursuant to C.C.P. § 704.730). *See*, App. at 122-128.

Debtor also signed and filed the Aguirre Spousal Waiver.

C. To A Party Ignorant Of The Truth

At no time before the filing of Debtor's amended schedules on April 3, 2025 was Mora made aware of Debtor's intention to claim a homestead exemption under C.C.P. § 704 after Debtor's admissions at his meeting of creditors, his waiver, and his amended schedules under C.C.P. § 703.140. *See*, App. at 145.

D. Intention

“To create an equitable estoppel, ‘it is enough if the party has been induced to refrain from using such means or taking such action as lay in his power, by which he might have retrieved his position and saved himself from loss’. Where the delay in commencing action is induced by the conduct of the defendant it cannot be availed of by him as defense.” *Lantzy v. Centex Homes*, 31 Cal.4th 363, 384, 2 Cal.Rptr.3d 655, 73 P.3d 517 (2003) (quoting *Vu v. Prudential Property & Casualty Insurance Company*, 26 Cal.4th 1142, 1152-1153, 113 Cal.Rptr.2d 70, 33 P.3d 487 (2001); accord *In re Lua*, 529 B.R. 766, 777 (Bankr. C.D. Cal. 2015)

An "estoppel may arise although there was no designed fraud on the part of the person sought to be estopped." *Lantzy v. Centex Homes*, 31 Cal.4th at 384, 2 Cal.Rptr.3d 655, 73 P.3d 517 (quoting *Vu v. Prudential Property & Casualty Insurance Company*, 26 Cal.4th at 1152, 113 Cal.Rptr.2d 70, 33 P.3d 487); *see also Crestline Mobile Homes Manufacturing Co. v. Pacific Finance Corp.*, 54 Cal.2d 773, 778-779, 8 Cal.Rptr. 448, 356 P.2d 192 (1960) ("Negligence that is

careless and culpable conduct is, as a matter of law, equivalent to an intent to deceive and will satisfy the element of fraud necessary to an estoppel."). Silence may be used as evidence of fraudulent intent. *In re Lua*, 529 B.R. at 777 (Bankr. C.D. Cal. 2015)(citing *R.D. Reeder Lathing Company, Inc. v. Allen*, 66 Cal.2d 373, 378 (1967)).

The preponderance of the evidence shows that Debtor intended to induce Trustee and Mora to rely on his elections under the set of exemptions of C.C.P. § 703.140(b), and his filed waiver of exemptions under C.C.P. § 704, after previously claiming a homestead exemption under C.C.P. § 704.

E. Inducement

Mora relied on Debtor's repeated representations that he was electing exemptions only under the set of exemptions of C.C.P. § 703.140(b), or he would have raised the issue in his Adversary Proceeding against Mora. The Court dismissed the Adversary Proceeding without leave to amend on January 9, 2025 based upon the exemptions then being claimed by Debtor. Debtor clearly waited until the decision on the motion to dismiss the Adversary Proceeding to file the exemption amendment, as it would have supported claims in the Adversary Proceeding. The dismissal of the Adversary Proceeding without leave to amend is on appeal to this Court.

Trustee relied on Debtor's repeated representations that he was electing exemptions under the set of exemptions of C.C.P. § 703.140(b), inducing him to incur administrative expenses. “In Schedule D, Debtor claimed a \$288,816.72 homestead exemption in 1939-41 Ensenada St. Lemon Grove, California ("Ensenada Property") under California Civil Procedure Code § 704.730. *Id.* But at the February 8, 2024 meeting of creditors he admitted he does not reside there (ECF No. 47). He then amended his homestead exemption under California Civil Procedure Code § 703.140(b)(1) and (b)(5) to \$31,950 and \$1,700, respectively, leaving \$197,478 non-exempt equity in the Ensenada Property (ECF Nos. 26, 28 & 47). In response, the Trustee informed Debtor he intended to liquidate the estate's interest in the Ensenada Property, employed counsel to aid in that on April 4, 2024, and demanded turnover from the two non-debtor joint owners (ECF Nos. 35, 40 & 47).” *See*, App. at 123.

CONCLUSION

Appellant Mario Montes Mora requests the Court reverse the Order overruling the objection to the homestead exemption, and for such other and further relief as this Court deems proper.

Dated: July 20, 2026

LAW OFFICES OF DOUGLAS JAFFE
s/ Douglas Jaffe
Dougjaffelaw@gmail.com

CERTIFICATE OF COMPLIANCE

I am the attorney for Appellant. This brief contains 6,853 words, including zero words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief complies with the word limit of Cir. R. 32-1.

Dated: July 20, 2026

LAW OFFICES OF DOUGLAS JAFFE

s/ Douglas Jaffe

Dougjaffelaw@gmail.com

STATEMENT OF RELATED CASES

The known related case pending in this Court is *In re: Aguirre*, 9th Circuit Court of Appeals Case No. 25-7614.

Dated: July 20, 2026

LAW OFFICES OF DOUGLAS JAFFE

s/ Douglas Jaffe

Dougjaffelaw@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2026, I electronically filed the APPELLANT'S AMENDED OPENING BRIEF and APPELLENT'S EXCERPTS OF RECORD with the Clerk of the Court for the Ninth Circuit by using the CM/ECF system.

I certify that all parties of record to this appeal either are registered CM/ECF users, have registered for electronic notice, or have consented in writing to electronic service, and that service will be accomplished through the CM/ECF system. The parties of record who are being served through the CM/ECF system are as follows:

Bruce Babcock, Esq.

brbab@hotmail.com

Dated: July 20, 2026

LAW OFFICES OF DOUGLAS JAFFE
s/ Douglas Jaffe
Dougjaffelaw@gmail.com

ADDENDUM OF AUTHORITIES

STATUTES

C.C.P. § 703.140

(a) In a case under Title 11 of the United States Code, all of the exemptions provided by this chapter, including the homestead exemption, other than the provisions of subdivision (b) are applicable regardless of whether there is a money judgment against the debtor or whether a money judgment is being enforced by execution sale or any other procedure, but the exemptions provided by subdivision (b) may be elected in lieu of all other exemptions provided by this chapter, as follows:

(1) If spouses are joined in the petition, they jointly may elect to utilize the applicable exemption provisions of this chapter other than the provisions of subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(2) (A) If the petition is filed individually, and not jointly, for a spouse, the exemptions provided by this chapter other than the provisions of subdivision (b) are applicable, except that, if both of the spouses effectively waive in writing the right to claim, during the period the case commenced by filing the petition is pending, the exemptions provided by the applicable exemption provisions of this chapter, other than subdivision (b), in any case commenced by filing a petition for either of them under Title 11 of the United States Code, then they may elect to instead utilize the applicable exemptions set forth in subdivision (b).

(B) Notwithstanding subparagraph (A), a waiver is not required from a debtor who is living separate and apart from their spouse as of the date the petition commencing the case under Title 11 of the United States Code is filed, unless, on the petition date, the debtor and the debtor's spouse shared an ownership interest in property that could be exempted as a homestead under Article 4 of this chapter.

(3) If the petition is filed for an unmarried person, that person may elect to utilize the applicable exemption provisions of this chapter other than subdivision (b), or to utilize the applicable exemptions set forth in subdivision (b), but not both.

(b) The following exemptions may be elected as provided in subdivision (a):

(1) The debtor's aggregate interest, not to exceed twenty-nine thousand two hundred seventy-five dollars (\$29,275) in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence.

- (2) The debtor's interest, not to exceed seven thousand five hundred dollars (\$7,500) in value, in one or more motor vehicles.
- (3) The debtor's interest, not to exceed seven hundred twenty-five dollars (\$725) in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.
- (4) The debtor's aggregate interest, not to exceed one thousand seven hundred fifty dollars (\$1,750) in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.
- (5) The debtor's aggregate interest, not to exceed one thousand five hundred fifty dollars (\$1,550) in value, plus any unused amount of the exemption provided under paragraph (1), in any property.
- (6) The debtor's aggregate interest, not to exceed eight thousand seven hundred twenty-five dollars (\$8,725) in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.
- (7) Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.
- (8) The debtor's aggregate interest, not to exceed fifteen thousand six hundred fifty dollars (\$15,650) in value, in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.
- (9) Professionally prescribed health aids for the debtor, the debtor's spouse, or a dependent of the debtor, including vehicles converted for use by the debtor, the debtor's spouse, or a dependent of the debtor, who has a disability. Conversion of a vehicle for use by a person who has a disability includes altering the interior, installing steering, a wheelchair lift, or motorized steps, or modifying the operation of the vehicle.
- (10) The debtor's right to receive any of the following:
 - (A) A social security benefit, unemployment compensation, or a local public assistance benefit.
 - (B) A veterans' benefit.
 - (C) A disability, illness, or unemployment benefit.
 - (D) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
 - (E) A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless all of the following apply:

- (i) That plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose.
- (ii) The payment is on account of age or length of service.
- (iii) That plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 408A of the Internal Revenue Code of 1986.
- (F) The aggregate interest, not to exceed seven thousand five hundred dollars (\$7,500), in vacation credits or accrued, or unused, vacation pay, sick leave, family leave, or wages, as defined in Section 200 of the Labor Code.
- (11) The debtor's right to receive, or property that is traceable to, any of the following:
 - (A) An award under a crime victim's reparation law.
 - (B) A payment under a settlement agreement arising out of or regarding the debtor's employment, to the extent reasonably necessary for the support of the debtor, the debtor's spouse, or a dependent of the debtor.
 - (C) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
 - (D) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a spouse or dependent on the date of that individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
 - (E) A payment, not to exceed twenty-nine thousand two hundred seventy-five dollars (\$29,275) on account of personal bodily injury of the debtor, the debtor's spouse, or an individual of whom the debtor is a dependent.
 - (F) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a spouse or dependent, to the extent reasonably necessary for the support of the debtor and the debtor's spouse or a dependent of the debtor.
- (12) Money held in an account owned by the judgment debtor and established pursuant to the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code), subject to the following limits:
 - (A) The amount exempted for contributions to an account during the 365-day period prior to the date of filing of the debtor's petition for bankruptcy, in the aggregate during this period, shall not exceed the amount of the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended, in effect at the time of the filing of the debtor's petition for bankruptcy.
 - (B) The amount exempted for contributions to an account during the period commencing 730 days prior to and ending 366 days prior to the date of filing of the debtor's petition for bankruptcy, in the aggregate during this period, shall not

exceed the amount of the annual gift tax exclusion under Section 2503(b) of the Internal Revenue Code of 1986, as amended, in effect at the time of the filing of the debtor's petition for bankruptcy.

(C) For the purposes of this paragraph, "account" includes all accounts having the same beneficiary.

(D) This paragraph is not subject to the requirements of Section 703.150.

RULES

F.R.Bank.P. 8002(a)(1)

(a) In General.

(1) *Time to File*. Except as (b) and (c) provide otherwise, a notice of appeal must be filed with the bankruptcy clerk within 14 days after the judgment, order, or decree to be appealed is entered.

F.R.Bank.P. 9024

(a) In General. Fed. R. Civ. P. 60 applies in a bankruptcy case—except that:

(1) the one-year limitation in Fed. R. Civ. P. 60(c) does not apply to a motion to reopen a case or to reconsider an uncontested order allowing or disallowing a claim against the estate;

(2) a complaint to revoke a discharge in a Chapter 7 case must be filed within the time allowed by §727(e); and

(3) a complaint to revoke an order confirming a plan must be filed within the time allowed by §1144, 1230, or 1330.

(b) Indicative Ruling. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending

F.R.Civ.P. 60

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
 - (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
 - (4) the judgment is void;
 - (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
 - (6) any other reason that justifies relief.
- (c) **Timing and Effect of the Motion.**
- (1) *Timing.* A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.
 - (2) *Effect on Finality.* The motion does not affect the judgment's finality or suspend its operation.
- (d) **Other Powers to Grant Relief.** This rule does not limit a court's power to:
- (1) entertain an independent action to relieve a party from a judgment, order, or proceeding;
 - (2) grant relief under 28 U.S.C. §1655 to a defendant who was not personally notified of the action; or
 - (3) set aside a judgment for fraud on the court.
- (e) **Bills and Writs Abolished.** The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.