



1  
2  
3  
4  
5  
6  
7  
8  
9  
10

**NOT FOR PUBLICATION**  
**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

11 In re:  
12 Stephen Law,

Case No: 2:04-bk-10052-TD

Chapter: 7

13 ORDER IN RESPONSE TO BAP'S ORDER  
14 GRANTING LIMITED REMAND

15  
16 Debtor.

17  
18 On April 23, 2009, the Bankruptcy Appellate Panel (“BAP”) entered an order granting a limited  
19 remand of Debtor’s appeal of my Memorandum Decision Regarding Trustee’s Motion to Surcharge  
20 Debtor’s Homestead Exemption, entered February 20, 2009. The issue remanded was whether or not to  
21 certify Debtor’s appeal pursuant to 28 U.S.C. § 753(f), which states that fees for transcripts furnished to  
22 persons permitted to appeal *in forma pauperis* shall be paid by the United States if “the trial judge or a  
23 circuit judge certifies that the suit or appeal is not frivolous (but presents a substantial question).”<sup>1</sup>  
24

25  
26 \_\_\_\_\_  
27 <sup>1</sup> The issue of whether Debtor may proceed *in forma pauperis* was transferred to the District Court. See  
28 the BAP’s Order Transferring Motion to United States District Court for Limited Purpose of Ruling on  
Motion Under 28 U.S.C. § 1915, filed April 23, 2009.

1 The issue resolved in my Memorandum Decision was whether Debtor’s homestead exemption  
2 should be surcharged. I concluded that Debtor’s entire homestead exemption must be surcharged,  
3 based on evidence demonstrating that his pattern of conduct throughout his bankruptcy amounted “to a  
4 fraud on the court and the debtor’s creditors” and increased administrative costs in the estate  
5 substantially. In re Onubah, 375 B.R. 549, 554 (9th Cir. BAP 2007). In so concluding, I resolved  
6 substantial questions of fact and law that are properly the subject of an appeal.<sup>2</sup> Therefore, I hereby  
7 CERTIFY that Debtor’s appeal is not frivolous, but presents a substantial question.  
8

9  
10 DATED: 5/6/09

11 \_\_\_\_\_ /s/  
12 HONORABLE THOMAS B. DONOVAN  
13 UNITED STATES BANKRUPTCY JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

---

24  
25 <sup>2</sup> I note the irony that, if the BAP affirms my decision, it will have found that Debtor’s pattern of conduct  
26 throughout this proceeding, including his bankruptcy filing, was based on fraud—in essence, that all of  
27 Debtor’s filings have been frivolous. I nevertheless believe that Debtor’s appeal presents substantial  
28 factual and legal questions that should be ruled on by the BAP. It would be inappropriate for me to  
effectively affirm my own decision by preventing Debtor from appealing my findings.

1 **NOTE TO USERS OF THIS FORM:**

- 2 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.  
3 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.  
4 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.  
5 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or  
6 attorney) who filed an opposition to the requested relief. **DO NOT** list an address if person/entity is listed in category I.

7 **NOTICE OF ENTERED ORDER AND SERVICE LIST**

8 Notice is given by the court that a judgment or order entitled ORDER IN RESPONSE TO BAP'S ORDER  
9 GRANTING LIMITED REMAND was entered on the date indicated as "Entered" on the first page of this  
10 judgment or order and will be served in the manner indicated below:

11 **I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling  
12 General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following  
13 person(s) by the court via NEF and hyperlink to the judgment or order. As of May 5, 2009, the following  
14 person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to  
15 receive NEF transmission at the email address(es) indicated below.

16 [sgubner@ebg-law.com](mailto:sgubner@ebg-law.com)

17 [ustpreion16.la.ecf@usdoj.gov](mailto:ustpreion16.la.ecf@usdoj.gov)

18  Service information continued on attached page

19 **II. SERVED BY THE COURT VIA U.S. MAIL:** A copy of this notice and a true copy of this judgment or order  
20 was sent by U.S. Mail to the following person(s) and/or entity(ies) at the address(es) indicated below:

21 Hon. Dennis Montali, BAP No. CC-09-1077  
22 PO Box 7341  
23 San Francisco, CA 94120-7341

24 **Stephen Law**  
25 P O Box 93562  
26 City of Industry, CA 91715-3562

27 **Alfred H Siegel**  
28 Siegel, Gottlieb, Mangel & Levine  
15233 Ventura Blvd., 9th Floor  
Sherman Oaks, CA 91403-2201  
(818) 325-8441

Service information continued on attached page

**III. TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or  
order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy  
bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of  
service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile  
transmission number(s) and/or email address(es) indicated below:

Service information continued on attached page

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ADDITIONAL SERVICE INFORMATION** (if needed):

Category I (Served by the Court via Notice of Electronic Filing ("NEF").	Category II (Served by Court via U.S. mail).
Category III (To be served by the lodging party).	