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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re:

DIANA R. BEARD-WILLIAMS,

Debtor.

Case No. 2:10-bk-30971-RK

Chapter 7

**MEMORANDUM DECISION ON DEBTOR'S  
MOTION FOR ORDER TO SHOW CAUSE  
RE: CONTEMPT AGAINST OSCAR  
ALEMAN AND HELEN ACOSTA, DOCKET  
NO. 63**

On December 11, 2020 debtor Diana R. Beard-Williams ("Debtor"), through counsel, filed and served a Motion for Order to Show Cause re: Contempt Against Oscar Aleman and Helen Acosta pursuant to Local Bankruptcy Rule 9020-1. Docket No. 63 (the "Motion"). Debtor is represented by Matthew D. Resnik and W. Sloan Youkstetter of the law firm of Resnik Hayes Moradi LLP. Creditors Oscar Aleman and Helen Acosta ("Creditors") filed a late opposition, or objection, to the motion on December 28, 2020, which was due on December 18, 2020, seven days after service under Local Bankruptcy Rule 9020-1. Docket No. 64 (the "Opposition"). Creditors are representing themselves. Having considered the Motion, declarations and exhibits attached thereto, and the Opposition, the court denies the Motion for the following

1 reasons.<sup>1</sup>

2 By the Motion made under Local Bankruptcy Rule 9020-1, Debtor requests the  
3 court to issue an order to show cause re: contempt directed to Creditors requiring them  
4 to show cause why they should not be held in civil contempt. Motion at 1-5. In support  
5 of the Motion, Debtor alleges that Creditors are willfully and knowingly violating the  
6 discharge injunction in this case pursuant to 11 U.S.C. § 524(a)(3) because they seek to  
7 enforce their state court judgment against community property that she and her  
8 husband, Allen Williams Brown (“Brown”), own for a debt that had been discharged in  
9 this bankruptcy case. *Id.* at 7,15-19. In her declaration in support of the Motion, Debtor  
10 states that she and Brown are married, having married on June 7, 1980, that they own  
11 the subject real property at 41160 Myrtle Street, Palmdale, California 93551 (the  
12 “Property”), that title to the Property is in the names of Brown, a married man as his sole  
13 and separate property, and Stanley M. Beard, Jr. (“Beard”), a married man as his sole  
14 and separate property,<sup>2</sup> as joint tenants, that Debtor has a 50 percent interest in the  
15 Property as community property as she and her husband, Brown, acquired the Property  
16 during marriage in 1997 with community property funds and that the Property is  
17 maintained with community property funds, that she and Brown have lived continuously  
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19 <sup>1</sup> Pursuant to Local Bankruptcy Rule 9020-1(d)(1), the court has discretion to conclude that there is no  
20 objection to the issuance of an order to show cause on a motion for civil contempt if the responding party  
21 does not timely file a written explanation why that party should not be held in contempt. Although  
22 Creditors’ explanation is late, the court declines to conclude that there is no objection to issuance of an  
23 order to show cause because their explanation is only a few days late, and the court also considers the  
24 impact of the end of year holidays (the court was closed on December 24-27) just before Creditors filed  
25 the Opposition. Creditors are self-represented litigants who manually filed their explanation, and as  
discussed herein, the Motion does not establish a *prima facie* case for relief. However, Creditors pray for  
various forms of affirmative relief in the Opposition, which are not properly before the court because they  
have not sought relief in a proper motion under Federal Rule of Bankruptcy Procedure 9013 or in an  
adversary proceeding pursuant to Federal Rules of Bankruptcy Procedure 7001 *et seq.* See Opposition  
at 18.

26 <sup>2</sup> Beard may be a relative of Debtor’s since Beard is part of her hyphenated surname, but her relationship  
27 with Beard, if any, is not explained in the Motion, nor is it explained by Debtor specifically why Beard is on  
28 title to the Property and she is not if she has a 50 percent community property interest in the Property.  
See Quitclaim Deed, executed by Debtor dated July 15, 2004, and recorded with the Los Angeles County  
Recorder on July 16, 2004, transferring her interest in the Property to Patricia Ashburne, a single woman,  
and Beard, a married man as his separate property, stating that the transfer is exempt from the  
documentary transfer tax as “GIFT – FAMILY TRANSFER.” Exhibit 6 to Opposition.

1 in the Property since its purchase, that Debtor listed the Property as an asset on  
2 Schedule A, Real Property, on her bankruptcy petition filed on May 25, 2010 and that  
3 Debtor listed Creditors in Schedule F, Creditors Holding Unsecured Nonpriority Claims.  
4 *Id.* at 23-24 and Exhibit A attached thereto; see *also*, Petition, Docket No. 1, filed on  
5 May 25, 2010.

6 Debtor relies upon 11 U.S.C. §§ 524(a)(3) and 541(a)(2) in support of her  
7 request for relief on grounds that Creditors are willfully and knowingly violating the  
8 discharge injunction because they seek to enforce their state court judgment against  
9 community property for a debt that had been discharged in this case. Motion at 7, 14-  
10 20. 11 U.S.C. § 541(a) provides that the property of the bankruptcy estate includes “[a]ll  
11 interests of the debtor and the debtor’s spouse in community property as of the  
12 commencement of the [bankruptcy] case . . . .” See *also*, *Dumas v. Mantle (In re*  
13 *Mantle)*, 153 F.3d 1082, 1085 (9th Cir. 1998) (“For purposes of § 541(a)(2), all  
14 community property not yet divided by a state court at the time of the bankruptcy filing is  
15 property of the bankruptcy estate.”) Debtor contends in the Motion that the Property  
16 was community property that she and Brown owned at the time she filed this bankruptcy  
17 case in 2010 and that the Property was included in her bankruptcy estate. Motion at 9-  
18 11, 14-15; see *also*, *id.* at 16 (“If one spouse files bankruptcy and the other does not, all  
19 community property goes into the filing spouse’s bankruptcy estate. 11 U.S.C. §  
20 542(a)(2).”) Thus, as such, the Property would be prepetition community property.

21 Debtor further contends that the Property as community property is protected by  
22 the discharge injunction in 11 U.S.C. § 524(a)(3) arising from this case. Motion at 7, 15-  
23 19. 11 U.S.C. § 524(a)(3) provides in pertinent part: “(a) A discharge in a case under  
24 this title . . . (3) operates as an injunction against the commencement or continuation of  
25 an action, the employment of process, or an act, to collect or recover from, or offset  
26 against, property of the debtor of the kind specified in section 541(a)(2) of this title that  
27 is acquired after the commencement of the case, on account of any allowable  
28 community claim . . . .” In her declaration in support of the Motion, Debtor stated that

1 she received a discharge in this case on April 8, 2011, that while Creditors brought an  
2 adversary proceeding against her for nondischargeability of debt, the adversary  
3 proceeding was dismissed on December 8, 2010 because Creditors failed to appear at  
4 a status conference, that Creditors sought reconsideration of dismissal of their  
5 adversary proceeding against her, which was denied, that Creditors obtained a  
6 judgment against her in their state court lawsuit against her and others on May 13, 2011  
7 and recorded abstracts of judgment against her and Brown in 2012, that her husband,  
8 Brown, filed his own Chapter 7 bankruptcy case on November 30, 2012 and received a  
9 discharge on May 20, 2013, that Creditors filed an adversary proceeding against Brown  
10 for nondischargeability of debt on January 2, 2013 in which the court entered a  
11 judgment in Creditors' favor on May 2, 2013, that Debtor and Brown found a *bona fide*  
12 purchaser of the Property for value and opened escrow on August 17, 2020, that  
13 Creditors made a demand on escrow on September 4, 2020, that afterwards, the buyer  
14 cancelled the escrow on September 22, 2020, that Debtor and Brown received a  
15 backup offer to purchase the Property on September 24, 2020 and opened escrow on  
16 September 25, 2020, that Creditors again made a demand on escrow on October 13,  
17 2020 and that the sale to the backup buyer is in danger of falling out of escrow and in  
18 jeopardy due to Creditors' escrow demand. *Id.* at 24-25.

19 As discussed herein, Debtor's factual assertions in the Motion are insufficient to  
20 make a *prima facie* case showing that she has a community property interest in the  
21 Property in order to demonstrate standing to enforce a discharge injunction against  
22 Creditors for attempting to collect a debt against this alleged community property  
23 interest through civil contempt proceedings pursuant to Local Bankruptcy Rule 9020-1.

24 Debtor's assertions of ownership of the Property as community property in the  
25 Motion are not substantiated. In her declaration in support of the Motion, Debtor states  
26 that formal title is held by Brown as his sole and separate property and Beard, as sole  
27 and separate property, as joint tenants. Motion at 23. Formal title to the Property in  
28 joint tenancy between Debtor's husband, Brown, and another party, Beard, is

1 incompatible with the property being community property between Debtor and Brown.<sup>3</sup>  
2 See California Civil Code § 682(a) and (d) (joint tenancy and community property are  
3 separate forms of joint interests); *In re Brace*, 9 Cal.5th 903, 916-917 (2020), *citing inter*  
4 *alia*, *Siberell v. Siberell*, 214 Cal. 767, 773 (1932).<sup>4</sup> Joint tenancy with two named joint  
5 tenants indicates that each joint tenant, namely, Brown and Beard, who are not married  
6 to each other, has an undivided joint tenancy interest in the Property. *Id.* Debtor is not  
7 on formal title on the Property as she is not named as a joint tenant by her own  
8 admission. However, Debtor states in her declaration that only she and Brown acquired  
9 the Property as community property. This assertion does not explain why Debtor is not  
10 on record title either as a joint tenant or as owner of community property, and why there  
11 is a third party, Beard, who is not her spouse, on title to the Property. Debtor does not  
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13  
14 <sup>3</sup> While Debtor does not provide any documents of title for the Property as evidence to substantiate her  
15 claims of ownership in the Motion, Creditors in opposition provided copies of recorded title documents to  
16 the Property showing that Debtor had executed quitclaim deeds transferring her interest to Brown and  
17 Beard in 2001 and 2002, and later in 2008, Beard transferred his interest to him and Brown as joint  
18 tenants. Exhibits 4-7 to Opposition. Debtor's transfers to Brown and Beard appear to have worked a  
19 transmutation of her community interest in the Property to Brown as his separate property under  
20 California Family Code §§ 850-852 and to Beard as a gift. In particular, Creditors offered a copy of a  
21 quitclaim deed executed by both spouses, Debtor and Brown as husband and wife as joint tenants,  
22 transferring their interests to Brown as a married man as his sole and separate property, which deed was  
23 executed on March 8, 2002, and recorded with the Los Angeles County Recorder on March 21, 2002.  
24 Exhibit 5 to Opposition. None of these transfers which evidence that the Property is Brown's separate  
25 property are explained by Debtor in the Motion as to how she retains a community property interest after  
26 these recorded transfers. Based on these transfers of interests in the Property by Debtor and Brown to  
27 others, it may well be that the title presumption of California Evidence Code § 662 applies since the title  
28 as documented is not just among the spouses, Debtor and Brown. California Evidence Code § 662  
provides: "The owner of the legal title to property is presumed to be the owner of the full beneficial title.  
This presumption may be rebutted only by clear and convincing proof."

22  
23 <sup>4</sup> In *In re Brace*, the California Supreme Court noted the distinctions between property held as joint  
24 tenancy and community property: "Joint tenancy creates a right of survivorship, whereby title passes to  
25 the surviving spouse without going through probate. (See *Siberell*, supra, 214 Cal. at p. 773, 7 P.2d  
26 1003.) In addition, joint tenants typically have separate interests in the property. (*Riddle v. Harmon* (1980)  
27 102 Cal.App.3d 524, 527, 162 Cal.Rptr. 530 (*Riddle*)). This means that one joint tenant's interest cannot  
28 be reached by the creditors of the other joint tenant. One joint tenant can also unilaterally sever the joint  
tenancy or alienate his or her share. (*Ibid.*) Community real property, by contrast, generally cannot be  
alienated by one spouse without the consent of the other spouse. (Fam. Code, § 1102.) In addition, "the  
community estate is liable for a debt incurred by either spouse before or during marriage" except as  
otherwise expressly provided by statute. (*Id.*, § 910, subd. (a).) At death, there is no automatic right of  
survivorship; half of the community property belongs to the surviving spouse, and the other half belongs  
to the decedent. (Prob. Code, § 100, subd. (a).) In the absence of a will, however, the decedent's share of  
the community property passes through intestacy to the surviving spouse. (*Id.*, § 6401, subd. (a).)" 9  
Cal.5th at 917-918.

1 explain these inconsistencies in the Motion.

2 Debtor asserts in her declaration in support of the Motion that she has a 50  
3 percent interest in the Property as community property because she and Brown  
4 acquired the Property in 1997 with community property funds. *Id.* There is no evidence  
5 which corroborates this assertion. Moreover, it is difficult to reconcile Debtor's claim of  
6 having a 50 percent community property interest where she is not on title, and two  
7 others, namely Brown and Beard, are on title as joint tenants, thus, holding themselves  
8 50 percent undivided interests as joint tenants. The Property cannot be entirely  
9 community property because the title holders are not all parties to a single marriage.

10 Moreover, Debtor's assertions in the Motion that she listed the Property as a  
11 community property asset on her bankruptcy petition and schedules are not supported  
12 in the record. In this case, Debtor as a self-represented party filed a voluntary petition  
13 for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C., on May 25, 2010. Docket  
14 No. 1. The court takes judicial notice of Debtor's bankruptcy petition and schedules and  
15 other documents filed in this bankruptcy case pursuant to Federal Rule of Evidence  
16 201. See Russell, *Bankruptcy Evidence Manual*, § 201.6 (online ed. October 2020  
17 update). On her bankruptcy petition, Debtor stated her address as 4906 Pacifica Ave.,  
18 Palmdale, CA 93552, Docket No. 1 at 1, and this address is not the subject Property.<sup>5</sup>  
19 Moreover, Debtor listed her mailing address on her bankruptcy petition as 3053 Rancho  
20 Vista Blvd., #188, Palmdale, CA 93551. *Id.* This also is not the subject Property.  
21 Debtor did list on her schedule of real property assets, Schedule A, a "Primary  
22 Residence" with no address information and secured claims in the amount of  
23 \$816,014.00 on this property. *Id.* at 13 (scheduling property as "w," presumably for  
24 wife). Debtor's Schedule D listed aggregate secured claims in the same amount,  
25 \$816,014.00, related to a "Primary Home" and two lenders, Ocwen Loan and Saxon  
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27 <sup>5</sup> Debtor later filed a change of address form in this case on October 4, 2010, changing her address to  
28 41160 Myrtle Street, Palmdale, CA 93551, which is the address of the Property, but that her mailing  
address remained the same as stated on the petition. Docket No. 29. While this change of address form  
indicates Debtor's association with the Property, this change of address form indicates that the Property  
was not the address for her that she listed on the petition and schedules.

1 Mortgage. *Id.* at 18. Debtor's Statement of Intention, *id.* at 48, listed these two lenders,  
2 Ocwen Loan and Saxon Mortgage, and the property securing the debts as Debtor's  
3 "Primary Home @ 8508 Tournament Dr., Memphis, TN 38125[.]" *Id.* at 48. This  
4 "Primary Home" is not the subject Property. Thus, the record based on Debtor's  
5 bankruptcy petition and schedules does not support her contention in the Motion that  
6 she listed the Property as a community property asset on her petition and schedules as  
7 the only real property listed in her schedules was her "Primary Home" in Tennessee.

8 Moreover, Debtor's assertions in the Motion that the Property was a community  
9 property asset because she and Brown were and are married are not supported in the  
10 record. Debtor stated her marital status on her bankruptcy petition as "Divorced" or  
11 "Unmarried." *Id.* at 34 ("Debtor's Marital Status: Divorced"); *id.* at 59 ("Marital/filing  
12 status. . . ☒ Unmarried."); see *also*, Chapter 7 Statement of Current Monthly Income  
13 and Means-Test Calculation, Docket No. 13 at 2 ("Marital/filing status. . . ☒  
14 Unmarried."). Debtor's statements on her bankruptcy petition and schedules that she  
15 was divorced or unmarried are inconsistent with her statements in her declaration in  
16 support of the Motion that she was and is married to Brown, and if she was "divorced" or  
17 "unmarried" as she stated in her bankruptcy petition, Debtor does not explain in the  
18 Motion how she could be the owner of community property if she was not then married  
19 when she filed her bankruptcy petition. It is possible that there were marital dissolution  
20 proceedings pending as of the petition date in which community property had not yet  
21 been divided, but this is not explained in the Motion.<sup>6</sup> However, if Debtor was divorced  
22 or unmarried in 2010 as she then stated on her bankruptcy petition, then how can the  
23 Property be community property ten years later in 2020 when the Property is being  
24 sold? Debtor's representations of her marital status in her bankruptcy petition and  
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26 <sup>6</sup> The court also notes that Creditors filed as another exhibit to the Opposition, a "Petition for Legal  
27 Separation," signed by Debtor, and filed in the Superior Court of California for the County of Los Angeles  
28 on April 17, 2009 in *In re Marriage of Diana Beard-Williams, Petitioner, and Allen Brown, Respondent*,  
No. MD036787, seeking to confirm to "Respondent", i.e., Brown, the "Property of 41160 Myrtle Street,  
Palmdale, CA 93551" as his separate property. Exhibit 8 to Opposition. This court filing indicates that  
Debtor considered the Property to be Brown's separate property, which is additional evidence  
inconsistent with Debtor's contention in the Motion that the Property was and is community property.

1 schedules as divorced or unmarried do not support the contentions in the Motion that  
2 the Property is her community property ten years later.

3 Accordingly, the court determines that Debtor's assertions in the Motion that she  
4 has a community property interest in the subject Property are problematic and uncertain  
5 and would need to be bolstered in order for her to make a *prima facie* showing under  
6 Local Bankruptcy Rule 9020-1 that there is cause for the court to issue an order to show  
7 cause re: contempt on grounds that Creditors are violating a discharge injunction to  
8 collect a discharged debt from a community property interest of hers and Brown's.  
9 There are too many inconsistencies between Debtor's assertions and the record  
10 regarding her ownership interest in the Property, her marital status and her disclosure of  
11 her ownership interest on her bankruptcy petition and schedules for the court to find that  
12 she has made such a *prima facie* showing for relief here.

13 The court will note additional facts that indicate the requested relief is not  
14 warranted here. The court previously granted Creditors relief from the automatic stay in  
15 this case to pursue a state court fraud action against Debtor on October 1, 2010.  
16 Docket No. 26. As Debtor noted in her declaration, Creditors' related adversary  
17 proceeding against Debtor to determine nondischargeability of debt in this case, No.  
18 2:10-ap-2638-PC (the "Adversary"), however, was dismissed on December 8, 2010,  
19 Adversary Docket No. 8. Debtor's discharge was entered in this case on April 8, 2011,  
20 Docket No. 49. However, although not discussed in the Motion, the Property, even if it  
21 had been listed in the petition and schedules, was not administered in this case by the  
22 Chapter 7 trustee as he filed a "no distribution" report as reflected on the case docket on  
23 January 27, 2011, and Debtor's bankruptcy case was closed on March 19, 2013.  
24 Docket No. 53.

25 On or about May 13, 2011, the state court entered a judgment in favor of  
26 Creditors and against both Debtor and Brown in the state court fraud action. See  
27 Motion at 11; State Court Judgment (copy attached as Exhibit 1 to Opposition). Brown  
28 commenced his own bankruptcy case in this court by filing a voluntary petition for relief



1 under Chapter 7 on November 30, 2012, which was assigned to Judge Russell. No.  
2 2:12-bk-49655-BR. Brown Main Bankruptcy Case, Docket No. 1. Brown listed the  
3 Property as his street address on his bankruptcy petition, Brown Main Bankruptcy Case,  
4 Docket No. 1 at 1, and he listed the Property as an asset on his bankruptcy schedules.  
5 Brown Main Bankruptcy Case, Docket No. 1 at 11 (Schedule A, stating that “Debtor’s  
6 name is on title but not on loan. . . . Home was refinanced by family members.”). Brown  
7 listed a secured claim of \$493,200.00 on the Property. *Id.* In his Statement of Intention,  
8 Brown stated that he was only on title to the Property, and there was “no loan on  
9 primary residence to discharge.” *Id.* at 41. Brown also listed his marital status as  
10 “Legally sep[arated].” *Id.* at 26. Brown later, however, listed himself as “Married, not  
11 filing jointly, with declaration of separate households” on his means test computation  
12 form. *Id.* at 47.

13 Creditors filed an adversary proceeding for nondischargeability of debt against  
14 Brown in his bankruptcy case on January 2, 2013, Adversary No. 2:13-ap-01002-BR,  
15 Docket No. 1. The court by Judge Russell entered findings of fact and conclusions of  
16 law and a judgment thereon in that adversary proceeding against Brown and in favor of  
17 Creditors on May 2, 2013, holding that the state court judgment debt against him based  
18 on fraud was not dischargeable based on application of the doctrine of issue preclusion  
19 from the state court judgment. Findings of Fact and Conclusions of Law and Judgment,  
20 *Acosta v. Brown (In re Brown)*, Adv. No. 2:13-ap-01002-BR (Bankr. C.D. Cal. May 2,  
21 2013) (copy attached as Exhibit 2 to Opposition), Brown Adversary, Docket No. 9;  
22 Judgment, Brown Adversary, Docket No. 10. The Ninth Circuit Bankruptcy Appellate  
23 Panel (the “BAP”) affirmed the bankruptcy court’s judgment against Brown in that  
24 adversary proceeding and the findings that the state court judgment debt was not  
25 dischargeable. Memorandum Opinion, *Brown v. Acosta (In re Brown)*, BAP No. CC-13-  
26 1267-PaTaKu (9th Cir. BAP May 12, 2014) (unpublished memorandum decision)(copy  
27 attached as Exhibit 3 to Opposition), Brown Adversary, Docket No. 24; Order of  
28 Mandate, Brown Adversary, Docket No. 27 (copy also attached as Exhibit 3 to

1 Opposition. Notably, the BAP's decision observed that the state court judgment  
2 awarded Creditors damages against Brown and Debtor Beard-Williams, among others,  
3 jointly and severally. *Id.*, Memorandum Decision at 7.

4 Brown's discharge was entered in his bankruptcy case on May 20, 2013. Brown  
5 Main Bankruptcy Case, Docket No. 29. Accordingly, Brown remains personally liable to  
6 Creditors for the debt from the state court judgment, which is nondischargeable as to  
7 him. The Chapter 7 trustee in Brown's case did not administer the Property as an asset  
8 of his bankruptcy estate as she filed a "no distribution" report on May 13, 2013, and  
9 Brown's case was closed on February 5, 2014. Brown Main Bankruptcy Case, Docket  
10 No. 32.

11 However, Debtor's motion presents the court with the issue of what is the effect  
12 of Debtor's discharge in this case on Creditors' actions to collect against alleged  
13 community property of Brown and Debtor on the debt owed by Brown from the state  
14 court fraud judgment against Brown and Debtor, which debt is dischargeable as to her  
15 but nondischargeable as to him. As discussed below, regardless of whether Debtor  
16 has a valid community property interest in the Property, the court determines that  
17 Debtor has not made a *prima facie* showing for issuance of an order to show cause re:  
18 civil contempt pursuant to Local Bankruptcy Rule 9020-1 on grounds that Creditors'  
19 actions to enforce the debt owed by Brown against the Property violate the discharge  
20 injunction in this case pursuant to 11 U.S.C. § 524(a)(3).

21 Bankruptcy courts have the power of civil contempt under 11 U.S.C. § 105 and  
22 Federal Rule of Bankruptcy Procedure 9020. *In re Rainbow Magazine, Inc.*, 77 F.3d  
23 278, 284-285 (9th Cir. 1996). In civil contempt proceedings, "[t]he moving party has the  
24 burden of showing by clear and convincing evidence that the contemnors violated a  
25 specific and definite order of the court." *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d  
26 1178, 1190-1191 (9th Cir. 2003) (quoting *Renwick v. Bennett (In re Bennett)*, 298 F.3d  
27 1059, 1069 (9th Cir. 2002)). Clear and convincing evidence is a "higher standard than  
28 the preponderance of the evidence standard but less stringent than beyond a

1 reasonable doubt.” *United States v. Powers*, 629 F.2d 619, 626 n. 6 (9th Cir. 1980)  
2 (citation omitted).

3 “[A] court may hold a creditor in civil contempt for violating a discharge order if  
4 there is *no fair ground of doubt* as to whether the order barred the creditor’s conduct.”  
5 *Taggart v. Lorenzen*, 139 S.Ct. 1795, 1799 (2019) (emphasis in original). “In other  
6 words, civil contempt may be appropriate if there is no objectively reasonable basis for  
7 concluding that the creditor’s conduct might be lawful.” *Id.* The Ninth Circuit recently  
8 considered the *Taggart* case on remand, applying the objective reasonableness  
9 standard directed by the Supreme Court. *In re Taggart*, 980 F.3d 1340 (9th Cir. 2020).  
10 As the Ninth Circuit stated in *Taggart* on remand, “Civil contempt is a ‘severe remedy’  
11 and, correspondingly, the Supreme Court has set a significantly high hurdle for when it  
12 is imposed.” *Id.* at 1347, *citing Taggart v. Lorenzen*, 139 S.Ct. at 1802. As the Ninth  
13 Circuit further observed, “[t]he standard is rooted in the concept that ‘basic fairness  
14 requir[es] that those enjoined receive explicit notice of what conduct is outlawed before  
15 being held in civil contempt.” *Id.* (internal quotation marks and citation omitted). Thus,  
16 the appropriate standard is, as observed by the Ninth Circuit, quoting the Supreme  
17 Court, “civil contempt may be appropriate if there is no objectively reasonable basis for  
18 concluding that the creditor’s conduct might be lawful.” *Id.*, *citing and quoting, Taggart*  
19 *v. Lorenzen*, 139 S.Ct at 1799.

20 Here, the court must apply the Supreme Court’s standard as recently considered  
21 by the Ninth Circuit in *In re Taggart*, that is, the court must determine whether Creditors  
22 had any objectively reasonable basis for concluding that their enforcement of their  
23 judgment lien against the Property might be lawful and thus, might not violate the  
24 discharge injunction from this case. *In re Taggart*, 980 F.3d at 1348.

25 Under this objective standard of *Taggart*, the court determines that as discussed  
26 herein, Creditors had an objectively reasonable basis for concluding that the Property  
27 was not postpetition-acquired community property protected by the discharge injunction  
28 of 11 U.S.C. § 524(a)(3) and that therefore, their enforcement of the judgment lien

1 against Brown's community property interest in the Property might have been lawful and  
2 thus, might not have violated the discharge injunction. Accordingly, the court  
3 determines that Debtor has failed to carry her burden of making a *prima facie* showing  
4 to demonstrate by clear and convincing evidence that there is no fair ground of doubt as  
5 to whether the discharge injunction in this case bars Creditors from taking action to  
6 collect the debt owed by Brown from the Property in order to warrant the issuance of an  
7 order to show cause re: contempt pursuant to Local Bankruptcy Rule 9020-1.

8 As previously discussed, the record before the court in the moving and opposing  
9 papers fails to substantiate that Debtor has a community property interest in the  
10 Property to protect due to lack of corroborating evidence and lack of clarity regarding  
11 her title and her marital status. Even if the Property was Debtor's community property  
12 with Brown, however, the court would still deny her request for an order to show cause  
13 re: contempt.

14 A prepetition community property asset owned by a debtor and a nonfiling  
15 spouse that is not administered by a Chapter 7 bankruptcy trustee in the debtor's "no  
16 asset" bankruptcy case reverts back to the debtor and the spouse as community  
17 property after the debtor's bankruptcy case is closed pursuant to 11 U.S.C. §554(c). *In*  
18 *re Moreno*, \_\_\_ B.R. \_\_\_, No. 6:19-bk-11255-WJ Chapter 7, 2020 WL 6929247 at \*6  
19 (Bankr. C.D. Cal. July 17, 2020); *see also*, *Sanwa Bank California v. Chang*, 87  
20 Cal.App.4th 1314, 105 Cal.Rptr.2d 330 (2001).

21 *Moreno* involved the case of a debtor who filed her Chapter 13 bankruptcy case  
22 while her husband's separate, earlier-filed Chapter 7 bankruptcy case was still pending  
23 whereby the trustee in her Chapter 13 bankruptcy case asked the bankruptcy court to  
24 deny confirmation of debtor's proposed Chapter 13 plan and to dismiss her case, citing  
25 the overlapping nature of the two cases. *In re Moreno*, No. 6:19-bk-11255-WJ Chapter  
26 7, 2020 WL 6929247 at \*1. Judge Johnson of this court held in *Moreno* that the motor  
27 vehicle that debtor drove, which was community property, did not become an asset of  
28 her Chapter 13 bankruptcy estate when she filed her case as it already had passed into

1 her husband's Chapter 7 bankruptcy estate when he commenced his case, and since  
2 the vehicle was not part of Debtor's Chapter 13 estate, the creditor holding a lien  
3 against the vehicle had no secured claim in her case, and her Chapter 13 plan, which  
4 proposed to modify that allowed secured claim, could not be confirmed. *Id.* at \*1-5.  
5 However, the vehicle was later transferred by operation of law into her bankruptcy  
6 estate through a technical abandonment under 11 U.S.C. § 554(c) when the husband  
7 properly disclosed it as a community property asset that was overencumbered and his  
8 case was concluded as a "no asset" case and closed. *Id.* at \*5-9. As Judge Johnson  
9 concluded, the community property vehicle was swept into the estate of the first spouse  
10 to file for bankruptcy under 11 U.S.C. § 541(a)(2), but later flowed back to the husband  
11 and wife as community property and into her bankruptcy estate as it was not  
12 administered in his bankruptcy estate pursuant to 11 U.S.C. § 554(c). *Id.* at 6 and n. 8,  
13 *citing inter alia, Catalano v. Commissioner*, 279 F.3d 682, 685 (9<sup>th</sup> Cir. 2002).<sup>7</sup> While  
14

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15 <sup>7</sup> As explained by Judge Johnson in *Moreno*, "Married couples have the right to file a joint bankruptcy  
16 case, but they are not required to do so. When they elect to file separate bankruptcy cases, such cases  
17 can present unique problems in states governed by community property laws. Section 541(a)(2) of the  
18 Bankruptcy Code provides that property of a bankruptcy estate includes all community property of the  
19 debtor and the debtor's spouse. This means that when a married couple files separate bankruptcy cases,  
20 all of their community property becomes property of the bankruptcy estate in the case filed first. Separate  
21 bankruptcy estates arise in both cases but the bankruptcy estate in the case filed second does not  
22 include any community property because all of it passed into the first bankruptcy estate. The community  
23 property of a couple flows into the bankruptcy estate of the spouse who arrives at the bankruptcy court  
24 first." *In re Moreno*, \_\_\_ B.R. at \_\_\_, 2020 WL 6929247, slip op. at \*2 and nn. 2 and 3, *citing inter alia*, 11  
25 U.S.C. § 541(a)(2) and *Texaco, Inc. v. Barlett (In re Barlett)*, 24 B.R. 605, 608 (9<sup>th</sup> Cir. BAP 1982) (one of  
26 the first published decisions to hold that "virtually all of a couple's California community property becomes  
27 part of the estate of the first spouse to file a petition"). In this case as well as in *Moreno*, the alleged  
28 community property asset was not administered in the first spouse's bankruptcy case as the asset was  
technically abandoned pursuant to 11 U.S.C. § 554(c) when the Chapter 7 trustee filed a "no distribution"  
report and the case was closed. 11 U.S.C. § 554(c) states: "(c) Unless the court orders otherwise, any  
property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the  
closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title."  
As Judge Johnson observed in *Moreno*, "Under this provision, any properly disclosed asset in a  
bankruptcy case reverts back to the debtor when the case closes if the trustee does not sell or otherwise  
administer the asset." *In re Moreno*, \_\_\_ B.R. at \_\_\_, 2020 WL 6929247, slip op. at \*6, *citing*, 11 U.S.C.  
§ 554(c). Judge Johnson further observed, "[under section 554(c), during the pendency of the bankruptcy  
case of [the first spouse to file], he and the Debtor [i.e., the second spouse to file bankruptcy] had the  
right to receive back (at the end of the [first bankruptcy] case all exempt assets, overencumbered assets  
and any other assets which the trustee failed to administer." *Id.* at 7. Thus, as Judge Johnson  
concludes: "This is a well-known feature of bankruptcy law. Congress designed the bankruptcy estate  
under section 541(a) to be very broad and to sweep in all assets of a debtor (including community  
property). But at the end when the case closes, all property disclosed and unadministered property flows  
out of the estate and back to the original owners." *Id.* According to Judge Johnson, "[p]ursuant to section

1 the court in *Moreno* held that debtor's original Chapter 13 plan could not be confirmed,  
2 the court denied the Chapter 13 trustee's motion to dismiss because the debtor could  
3 propose a revised plan to modify the secured creditor's lien since the community  
4 property vehicle became property of her estate by operation of law. *Id.* at 9 and n. 13.  
5 *Moreno* thus supports the proposition that in this case, the Property, if it is properly  
6 disclosed community property as Debtor contends, became part of the estate in Brown's  
7 subsequent bankruptcy case as a community property asset pursuant to 11 U.S.C. §  
8 541(a)(2) when the Property was technically abandoned in her bankruptcy case  
9 pursuant to 11 U.S.C. § 554(c) and was thus subject to collection by Creditors of the  
10 nondischargeable debt that he owed to them.

11 If the Property was a community property asset not properly disclosed on  
12 Debtor's bankruptcy petition and schedules, then the case of *Sanwa Bank California v.*  
13 *Chang*, would appear to apply, and in that case, the California Court of Appeal held that  
14 an asset owned as community property before the debtor husband's bankruptcy case,  
15 which was fraudulently transferred to the wife, and not administered in his bankruptcy  
16 case, was prepetition community property and was not protected by the discharge  
17 injunction of 11 U.S.C. §524(a)(3) from postbankruptcy recovery by the creditor. *Sanwa*  
18 *Bank California v. Chang*, 87 Cal.App.4th at 1318, 105 Cal.Rptr.2d at 332-333. The  
19 court in *Sanwa Bank California v. Chang* affirmed the trial court's judgment holding the  
20 wife liable for the fraudulent conveyance and rejecting her defense that pursuant to 11  
21 U.S.C. § 524(a)(3), her husband's bankruptcy discharge also served to discharge her  
22 from liability under state law grounds for fraudulent conveyance, stating that "[t]he  
23 injunction created by [her husband's] discharge does not protect the residence from the  
24 present fraudulent conveyance action because it was pre-bankruptcy property, not after-

25  
26 541(a), on the petition date, the property of the Debtor's bankruptcy estate included her right to receive  
27 community property that would later flow out of her husband's [first filed] bankruptcy case when it closed  
28 in the future." *Id.* at 8. For purposes of this case, pursuant to 11 U.S.C. § 541(a)(2), the bankruptcy  
estate in Brown's bankruptcy case included any community property that flowed out of Debtor's  
bankruptcy case pursuant to 11 U.S.C. § 554(c) if such community property existed at the  
commencement of his bankruptcy case.

1 acquired property, and it was never made part of the bankruptcy estate.” *Id.* at 1315-  
2 1316, 1319.

3 The circumstances in this case indicate that the discharge injunction of 11 U.S.C.  
4 §524(a)(3) does not apply to the Property because, assuming *arguendo* that the  
5 Property was community property of Debtor and Brown, the Property was and is a  
6 prepetition community property asset subject to Creditors’ prepetition community claim  
7 which was determined to be nondischargeable in Brown’s Chapter 7 bankruptcy case.  
8 As noted above, the statutory language of 11 U.S.C. § 524(a)(3) does not refer to  
9 prepetition community property, providing in pertinent part: “(a) A discharge in a case  
10 under this title . . . (3) operates as an injunction against the commencement or  
11 continuation of an action, the employment of process, or an act, to collect or recover  
12 from, or offset against, **property of the debtor of the kind specified in section**  
13 **541(a)(2) of this title that is acquired after the commencement of the case** [i.e.,  
14 postpetition community property], on account of any allowable community claim . . . .”  
15 11 U.S.C. § 524(a)(3) (emphasis added); see also, 4 Levin and Sommer, *Collier on*  
16 *Bankruptcy*, ¶ 524.02[3][a] (online edition, 2020)(describing 11 U.S.C. § 524(a)(3) as  
17 “[t]he special community property provision to protect after-acquired property of the  
18 discharged spouse from the other spouse’s creditors”). There is nothing in the statutory  
19 language of 11 U.S.C. § 524(a)(3) to support Debtor’s claim that it protects her interest  
20 in prepetition community property, such as the Property acquired in 1997 before her  
21 bankruptcy case in 2010.

22 The community property discharge injunction under 11 U.S.C. § 524(a)(3) does  
23 not apply to the Property in this case where, assuming *arguendo* that it was community  
24 property included in the Debtor’s bankruptcy estate, the Property was technically  
25 abandoned in Debtor’s bankruptcy case (as well in Brown’s subsequent bankruptcy  
26 case) pursuant to 11 U.S.C. § 554(c), which revested it in Debtor and Brown, and  
27 Creditors now hold a nondischargeable claim against Brown, which is enforceable  
28 against the prebankruptcy community property interest in the Property that he and

Debtor own jointly after revesting from her bankruptcy case (and from Brown's bankruptcy case). Despite the court's research, it was unable to find any published or unpublished decision applying 11 U.S.C. §524(a)(3) to a prepetition community property asset not administered due to abandonment pursuant to 11 U.S.C. § 554. While there does not appear to be published case authority on point, this result is supported by bankruptcy law treatises, such as *Collier Family Law and the Bankruptcy Code* and *Rutter Group California Practice Guide: Bankruptcy*.

The protection provided by 11 U.S.C. §524(a)(3) applies only to community property acquired after the commencement of the case. There may be a community property asset owned by the debtor and the nonfiling spouse before the case was filed, but not administered by the trustee and still owned as community property after the discharge is issued. Similarly, a community property asset that is included in the estate and abandoned by the trustee is not protected by the injunction provided by 11 U.S.C. §524(a)(3).

1 McGarity, et al., *Collier Family Law and the Bankruptcy Code*, ¶4.08 (online ed. July 2020 update), *citing*, *Sanwa Bank California v. Chang*, 87 Cal.App.4<sup>th</sup> 1314, 105 Cal.Rptr.2d 330 (2001) (asset owned as community property before husband's bankruptcy, fraudulently transferred to wife, and not administered in bankruptcy, was held to be community property and not protected by the discharge injunction from recovery by creditor). <sup>8</sup>

The [11 U.S.C.] § 524(a)(3) injunction merely prevents creditors holding a community claim from proceeding against postpetition community property. It is *not* a discharge of the nonfiling spouse's *personal liability*. [See *Sanwa Bank Calif. v. Chang* (2001) 87 CA4th 1314, 1319, 105 CR2d 330, 333]. Thus, community claims can still be enforced against the

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<sup>8</sup> This court also notes that another court holding that a nondebtor spouse's separate property is liable for a community debt under New Mexico law has stated in dicta in a published opinion that "One treatise, however, states that following a debtor's discharge where no claim is determined to be nondischargeable, collection on a debt by a creditor of the nondebtor spouse is limited to the nondebtor spouse's separate property *and any pre-bankruptcy community property not included in the estate*. Collier on Bankruptcy, ¶ 524.01 (1993), (*citing In re Karber*, 25 B.R. 9 (Bankr.N.D.Tex.1982))." *In re Strickland*, 153 B.R. 909, 912 (Bankr. D. N.M. 1993) (emphasis in italics added), *cited and quoted in*, *Sanwa Bank California v. Chang*, 87 Cal.App.4<sup>th</sup> at 1318-1319, 105 Cal.Rptr.2d at 333.



1 nonfiling spouse's *separate property* or *prebankruptcy*  
2 community assets that for any reason were not included in  
3 the debtor's bankruptcy estate. [*Sanwa Bank Calif. v.*  
4 *Chang*, supra, 87 CA4th at 1319, 105 CR2d at 333--creditor  
5 with community claim could reach prebankruptcy community  
property fraudulently transferred to nonfiling spouse that was  
never made part of the bankruptcy estate].

6 March, Ahart & Shapiro, *Rutter Group California Practice Guide: Bankruptcy*, ¶¶ 22:132  
7 – 22:133 (online ed. December 2020 update) (emphases in original).

8 The court agrees with the conclusions of these bankruptcy law treatises that  
9 creditors do not violate the discharge injunction of 11 U.S.C. § 524(a)(3) when they  
10 collect upon prebankruptcy community property that is not administered by the trustee  
11 in a debtor's bankruptcy case and is still owned as community property after the  
12 discharge, which conclusions are supported by the express language of 11 U.S.C. §  
13 524(a)(3) and case law discussed above in *In re Moreno* and *Sanwa Bank California v.*  
14 *Chang*. Assuming *arguendo* in this case that Debtor listed the Property as a community  
15 property asset on her bankruptcy schedules, the trustee did not administer the Property  
16 as he filed a "no distribution" report, and the case was subsequently closed. Upon the  
17 closure of this "no distribution" Chapter 7 bankruptcy case, the Property as a scheduled  
18 but not administered asset would have reverted in Debtor and Brown, the community,  
19 because the Property was technically abandoned to Debtor by the Chapter 7 trustee in  
20 this bankruptcy case pursuant to 11 U.S.C. §554(c). Upon the filing of Brown's Chapter  
21 7 bankruptcy petition, however, the Property became part of the estate in his bankruptcy  
22 case pursuant to 11 U.S.C. § 541(a)(2) (a bankruptcy estate includes community  
23 property owned by a debtor (or a debtor's spouse) "as of the commencement of the  
24 case"). As one court has observed,

25 [A] non-debtor spouse, who is not granted a discharge or  
26 afforded a fresh start in the debtor's case, is merely an  
27 incidental beneficiary of the community property discharge  
28 injunction to prevent harm to the debtor. A non-debtor  
spouse can file his or her own bankruptcy case to invoke the  
protections of the Bankruptcy Code. And if the non-debtor  
spouse files a separate bankruptcy case but was not a party

1 to the [11 U.S.C.] § 524(a)(3) action in the original debtor-  
2 spouse's case, he or she ordinarily would not be bound by a  
3 court's prior decision on dischargeability of debt in the  
hypothetical case.

4 *Roman v. Greiner (In re Greiner)*, Adv. No. 14-1016 J, 2014 WL 6474067 at \*8 (Bankr.  
5 D. N.M. Nov. 18, 2014). In ruling that the debt owed by Brown based on the state court  
6 judgment was not dischargeable, Judge Russell, who presided over Brown's Chapter 7  
7 bankruptcy case, at least implicitly concluded that Creditors were not precluded from  
8 holding a nondischargeable claim against Brown based on the state court judgment by  
9 the doctrine of issue preclusion (collateral estoppel) and the dismissal of Creditors'  
10 adversary complaint in this Debtor's bankruptcy case. See Findings of Fact and  
11 Conclusions of Law, *Acosta v. Brown (In re Brown)*, Adv. No. 2:13-ap-01002-BR (Bankr.  
12 C.D. Cal. May 2, 2013) (copy attached as Exhibit 2 to Opposition). The BAP did not  
13 hold otherwise in upholding Judge Russell's decision in Brown's bankruptcy case.  
14 Memorandum Opinion, *Brown v. Acosta (In re Brown)*, BAP No. CC-13-1267-PaTaKu,  
15 2014 WL 1891208 (9<sup>th</sup> Cir. BAP May 12, 2014) (unpublished memorandum decision)  
16 (copy attached as Exhibit 3 to Opposition).

17 Debtor alleges that Creditors are violating the discharge injunction in this  
18 bankruptcy case of hers pursuant to 11 U.S.C. § 524(a)(3) by enforcing a prepetition  
19 community claim against the Property asserted to be community property belonging to  
20 her and Brown, contending that "[t]he precedent established in the 9<sup>th</sup> circuit is clear,  
21 'the personal liability of a nondebtor spouse that survives the bankruptcy only can be  
22 enforced against property of the nondebtor spouse that is not community property.' *In*  
23 *re Kimmel*, 378 B.R. 630, 636 (B.A.P. 9<sup>th</sup> Cir. 2007)." Motion at 16; see *id.* at 15-19. In  
24 this regard, Debtor refers to Brown as the "nondebtor spouse," and contends that based  
25 on *In re Kimmel* any personal liability that he may have can only be enforced against his  
26 property that is not community property based on the discharge injunction from this  
27 case pursuant to 11 U.S.C. § 524(a)(3). *Id.*

28 Debtor's reliance upon *In re Kimmel* is misplaced. The issue before the BAP in

1 *Kimmel* was “whether the [ ] discharge of [the debtor] protected future-acquired  
2 community property from enforcement of a discharged community claim.” *In re Kimmel*,  
3 378 B.R. at 634. In *Kimmel*, the creditor had sued debtor and her spouse on a  
4 community claim, and debtor filed a Chapter 7 bankruptcy case and was discharged.  
5 *Id.* at 633. The creditor proceeded with the lawsuit against the spouse and obtained a  
6 judgment against him personally on the community claim, and later, attempted to collect  
7 on the spouse’s community property interest in debtor’s postpetition wages. *Id.* The  
8 debtor filed a motion to enforce the discharge injunction under 11 U.S.C. § 524(a)(3)  
9 against the creditor’s efforts to collect on the spouse’s community property interest in  
10 her postpetition wages, which the bankruptcy court granted and the BAP affirmed. *Id.* at  
11 633-638. Specifically, the BAP in *Kimmel* stated that “[u]nder [11 U.S.C.] § 524(a)(3),  
12 [the debtor’s] discharge permanently enjoined enforcement of the [ ] Judgment [on  
13 the community claim] against all future-acquired community property, including both her  
14 own and [her spouse’s] interests in her wages.” *Id.* at 635-636 and n. 4.<sup>9</sup> The BAP  
15 further observed: “Regardless of whether the community claim was attributable to the  
16 actions of the debtor, the nondebtor spouse, or both, the effect of § 524(a)(3) is that all  
17 community property acquired post-bankruptcy is protected by the discharge.” *Id.* at  
18 635-636.

19 The facts of this case are different than those in *Kimmel* because Creditors are  
20 taking action to enforce their community claim against prepetition community property  
21 as opposed to a creditor taking action to enforce his community claim against  
22 postpetition, or future acquired, community property. See *also*, Motion at 16 (in  
23 discussing the facts of *Kimmel*, Debtor notes that “the creditor continued to pursue after-  
24 acquired community property to collect against the judgment”). Thus, this case is  
25 distinguishable from *Kimmel* because Creditors seek to enforce their community claim  
26 against prepetition community property which is not covered by the discharge injunction  
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<sup>9</sup> In footnote 4 of the opinion in *Kimmel*, the BAP cited and quoted verbatim the entire text of 11 U.S.C. § 524(a)(3). *In re Kimmel*, 378 B.R. at 635-636 n. 4.

1 of 11 U.S.C. § 524(a)(3), which by its express terms only refers to community property  
2 “that is acquired after the commencement of the case,” i.e., post-petition community  
3 property. The statutory language for the discharge injunction of 11 U.S.C. § 524(a)(3)  
4 does not refer to prepetition community property.

5 The specific holding of the BAP in *Kimmel* was that under 11 U.S.C. § 524(a)(3),  
6 the debtor’s discharge “permanently enjoined enforcement of the [judgment] against all  
7 future-acquired community property[.]” *Id.* at 635-636 (“the effect of § 524(a)(3) is that  
8 all community property acquired post-bankruptcy is protected by the discharge.”). The  
9 BAP repeatedly stated in *Kimmel* that 11 U.S.C. § 524(a)(3) protects “after-acquired  
10 community property,” *id.* at 636, such as the post-discharge wages at issue in that case.

11 As discussed above, the question before the BAP in *Kimmel* was specifically  
12 stated as “whether the [ ] discharge of [the debtor] protected **future-acquired**  
13 **community property** from enforcement of a discharged community claim.” *In re*  
14 *Kimmel*, 378 B.R. at 634 (emphasis added). The question in this case could be framed  
15 as “whether the discharge of the debtor protected prepetition community property from  
16 enforcement of a discharged community claim.” The answer to this question is given in  
17 the analysis provided above, that is, Creditors may enforce their prepetition community  
18 claim against the Property as prepetition community property that is not administered in  
19 Debtor’s bankruptcy case, which was the first of the two spouses to file for bankruptcy,  
20 and technically abandoned to Debtor and Brown afterwards. This is a different answer  
21 to a different question that was not addressed in *Kimmel*.

22 Accordingly, the record before the court indicates that Debtor has not met her  
23 burden of making a *prima facie* showing that Creditors violated Debtor’s discharge  
24 injunction under 11 U.S.C. § 524(a)(3) by recording abstracts of judgment on Debtor’s  
25 alleged community property interest in the Property because the court had granted  
26 Creditors relief from the automatic stay in Debtor’s bankruptcy case to proceed with the  
27 state court action against her and Brown, and they proceeded to judgment against  
28 Debtor and Brown. However, after obtaining the judgment against Debtor and Brown,

1 Creditors may not enforce their judgment for a community claim against her *in*  
2 *personam* in light of her discharge, but they may enforce the judgment for the  
3 community claim against Brown *in personam* as the debt is nondischargeable as to him,  
4 and Creditors may enforce the judgment based on a community claim against the  
5 Property as prebankruptcy community property owned by Brown and Debtor not  
6 administered in this case and abandoned pursuant to 11 U.S.C. § 554(c) to Debtor and  
7 Brown.

8 Accordingly, for the foregoing reasons, the court will deny the Motion and will  
9 decline to issue an order to show cause re: contempt because Debtor has not made out  
10 a *prima facie* case to demonstrate by clear and convincing evidence that there is no fair  
11 ground of doubt that Creditors should be held in civil contempt for their actions allegedly  
12 in violation of the discharge injunction of 11 U.S.C. § 524(a)(3) arising in this case. A  
13 separate final order denying the Motion is being entered concurrently herewith.

14 IT IS SO ORDERED.

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25 Date: January 21, 2021



Robert Kwan  
United States Bankruptcy Judge