



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re: Kellene Johnson,
Debtor

Case Nos.: 2:13-bk-12638-ER

Chapter: 7

**MEMORANDUM OF DECISION
DENYING APPLICATION FOR THE
ISSUANCE OF AN ORDER TO SHOW
CAUSE RE: CONTEMPT [DOC. NO. 71]**

I. Facts and Summary of Pleadings¹

Kellene Johnson (the “Debtor”) filed a voluntary Chapter 7 petition on January 31, 2013 (the “Petition”) [Doc. No. 1]². The Debtor received a Chapter 7 discharge on August 19, 2013.

¹ The Court reviewed the following papers in connection with this matter:

- 1) Notice of Motion and Motion for Issuance of an Order to Show Cause Why William Gordon and Jeffrey W. Leblanc Should Not be Held in Contempt of Court for Willful Violations of the Discharge Injunction Under 11 U.S.C. § 524 (the “Motion”) [Doc. No. 71]
 - a) Request for Judicial Notice and Appendix of Exhibits in Support of Motion [Doc. No. 72]
- 2) Objection of William Gordon and Jeff W. Leblanc to the Requested Issuance of an Order to Show Cause (the “Opposition”) [Doc. No. 76]
- 3) Debtor’s First Motion for Contempt against Gordon and Leblanc (the “First Motion for Contempt”) [Doc. No. 56]
 - a) Order Denying the First Motion for Contempt [Doc. No. 59]
- 4) Debtor’s Second Motion for Contempt against Gordon and Leblanc (the “Second Motion for Contempt”) [Doc. No. 61]
 - a) Order Denying the Second Motion for Contempt [Doc. No. 63]

Background

On January 14, 2011, Pre-Petition, Gordon commenced an action against Mr. Johnson and his company in the California Superior Court (the “State Court Action”) which asserted claims for breach of oral contract and common counts for goods and services rendered. *See* “Request for Judicial Notice and Appendix of Exhibits in Support of Motion” (“RJN”) [Doc. No. 72], Ex. A. The State Court Action sought recovery of damages from Mr. Johnson and his company arising from the sale of certain NFL tickets by Gordon to Mr. Johnson. *Id.* The Debtor’s schedules listed Gordon as a holder of an undisputed, unsecured community property claim in the total amount of \$29,080.00. Petition at Schedule F. Gordon did not take any action in relation to his unsecured claim during the pendency of the Debtor’s bankruptcy. Following the Debtor’s discharge, on February 5, 2014, Gordon obtained a judgment against Mr. Johnson in the amount of \$26,680.00. Gordon recorded an abstract of judgment in the Los Angeles Recorder’s Office on March 4, 2014. On August 7, 2016, the Court entered the “Order Granting Application for Order to Reopen Case for Violation of Discharge Injunction under 11 U.S.C. § 524” [Doc. No. 54]. The Debtor subsequently filed the Debtor’s First Motion for Contempt against Gordon and Leblanc on August 18, 2016 (the “First Motion for Contempt”) [Doc. No. 56]. The First Motion for Contempt argued that Gordon and Leblanc violated the Debtor’s discharge injunction by recording the judgment against Mr. Johnson, which the Debtor alleged “effectively put[] a Judgment lien on the real property that is the community property of the Debtor and her husband, and [was] a further attempt to coerce payment from postpetition community property earnings of the Debtor” in order to satisfy the judgment. Doc. No. 56. Gordon opposed the Debtor’s First Motion for Contempt and requested a hearing [Doc. No. 58]. On October 11, 2016, the Court entered the Order Denying the First Motion for Contempt [Doc. No. 59] on the grounds that the Debtor failed to comply with LBR 9013-1(o)(1)(B). On January 17, 2017, the Debtor filed the Second Motion for Contempt against Gordon and Leblanc (the “Second Motion for Contempt”) [Doc. No. 61], which renewed the arguments made in the First Motion for Contempt. On February 14, 2017, the Court entered the Order Denying the Second Motion for Contempt [Doc. No. 63] on the grounds that the Debtor’s Second Motion for Contempt was vague and failed to “provide sufficient details or evidence” that the funds sought by Gordon were “part of any postpetition community asset.” The Debtor’s case was closed on March 10, 2017.

The Motion

On January 4, 2018, the Court Reopened the Debtor’s Case. “Order Granting Motion to Reopen” [Doc. No. 69]. On January 25, 2018, Leina Zhang (the “Movant”) filed the “Motion for Issuance of an Order to Show Cause Why William Gordon and Jeffrey W. LeBlanc Should Not be Held in Contempt of Court for Willful Violations of the Discharge Injunction Under 11 U.S.C. § 524” (the “Motion”) [Doc. No. 71]. The Motion pertains to actions purportedly taken by Gordon and LeBlanc in relation to certain real property located at 1112 Edinburgh Road, San Dimas, CA (the “Edinburgh Property”), which was scheduled as a community asset by the Debtor in the Debtor’s bankruptcy case, and which the Movant purchased from the Debtor and her husband, Jeffrey Johnson, on June 30, 2015 following the entry of the Court’s “Order on Debtor’s Motion to Compel Chapter 7 Trustee to Abandon Certain Property of the Estate” (the “Abandonment Order”) [Doc. No. 47]. The Edinburgh Property was one of three properties

² The Debtor’s bankruptcy case was originally assigned to Judge Thomas B. Donovan. On December 29, 2017, the case was reassigned to Judge Ernest M. Robles.

owned by the Debtor and Mr. Johnson which the Court ordered the Trustee to abandon. Abandonment Order at 2. The Motion contends that Gordon has recorded a levy against the Edinburgh Property in an attempt to satisfy his judgment against Mr. Johnson, and that such act violates the Debtor's discharge injunction.

The Opposition

On February 1, 2018, Gordon and LeBlanc filed the "Objection of William Gordon and Jeff W. LeBlanc to the Requested Issuance of an Order to Show Cause" (the "Opposition") [Doc. No. 76]. The Opposition contends that the Motion improperly "seeks to divest [Gordon and LeBlanc] of their rights to a lien that arose by operation of law upon the recording of an abstract of judgment lien" Opposition at 1. The Opposition further contends that the Motion is an improper attempt to obtain a determination "of the validity or the extent of the lien, when such determination, if appropriate at all in this bankruptcy proceeding, must be done through an adversary proceeding." *Id.* The Opposition also advances certain arguments pertaining to the scope of the discharge injunction.

II. Findings of Fact and Conclusions of Law

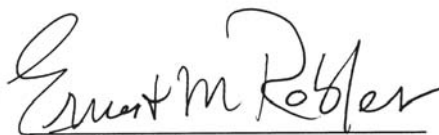
A discharge "operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover, or offset any such debt [any debt that has been discharged] as a personal liability of the debtor . . ." §524(a). "The injunction is intentionally broad in scope and is intended to preclude virtually all actions by a creditor to collect personally from the debtor." *In re Walker*, 180 B.R. 834, 842 (Bankr. W.D. La.1995). Regardless of the broad construction of § 524(a), "the statute's prohibitions apply only to actions taken by a creditor to collect *from* the debtor." *Finnie v. First Union Nat. Bank*, 275 B.R. 743, 746 (Bankr. E.D. Va. 2002) (emphasis in original).

Here, the Movant has not established that the actions of Gordon and LeBlanc are "actions taken by a creditor to collect *from* the debtor." *Id.* The levy recorded by Gordon was recorded against a property that is no longer owned by the Debtor or Mr. Johnson. *See* "Declaration of Thomas Ortiz" [Doc. No. 71] at ¶ 10; RJN [Doc. No. 72], Ex. I (Grant Deed dated May 7, 2015 conveying Edinburgh Property from Jeffrey A. Johnson and Kellene A. Johnson to Leina Zhang, Instrument No. 20150785228). The Movant has not established any basis for the Court to have jurisdiction over actions taken by a former creditor of the Debtor against a subsequent purchaser of property that was formerly property of the Estate. Enforcement actions taken against property that is no longer owned by the Debtor or Mr. Johnson do not constitute actions to collect a debt as a personal liability of the Debtor.

Based on the foregoing, the Court DENIES the Motion and declines to issue an Order to Show Cause. In denying the Motion, the Court does not make any findings or conclusions as to the substantive arguments advanced in either the Motion or the Opposition regarding the scope of the discharge injunction (*i.e.* whether the Gordon's judgment against Mr. Johnson is or is not a debt that was discharged in the Debtor's bankruptcy).

The Court will prepare an order consistent with this Memorandum of Decision.

Date: February 12, 2018

A handwritten signature in black ink, reading "Ernest M. Robles". The signature is written in a cursive style with a horizontal line underneath the name.

Ernest M. Robles
United States Bankruptcy Judge