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SEP 12 2019

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Central District of California  
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**NOT FOR PUBLICATION**

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION**

In re:

ARTURO GONZALEZ,

Debtor.

Case No. 2:15-bk-25283-RK

Chapter 7

**ORDER (1) DENYING FOR LACK OF  
JURISDICTION DEBTOR'S MOTIONS TO  
VACATE JUDGMENT FOR  
IRREGULARITIES, VACATE JUDGMENT  
FOR INTENTIONAL  
MISREPRESENTATIONS BY TRUSTEE,  
VACATE JUDGMENT FOR INTENTIONAL  
MISREPRESENTATION BY DEBTOR'S  
FORMER ATTORNEY, FRAUD ON THE  
COURT AND SET ASIDE JUDGMENT  
UNTIL PENDING INVESTIGATIONS ARE  
CONCLUDED AND (2) VACATING  
OCTOBER 1, 2019 HEARING**

Vacated Hearing

Date: October 1, 2019

Time: 2:30 p.m.

Courtroom: 1675

On September 6, 2019, Debtor Arturo Gonzalez filed a Notice of Motion for : 1)  
Hearing to Vacate Judgment for Irregularities, 2) Motion to Vacate Judgment for

1 Intentional Misrepresentation by Trustee, 3) Motion to Vacate Judgment for Intentional  
2 Misrepresentation by Debtor's Former Attorney, 4) Motion for Fraud on the Court, 5) Set  
3 Aside ("Motions") (Docket No. 466) which was set for hearing October 1, 2019 at 2:30  
4 p.m. Having considered the Motions and the record before the court, the court denies  
5 the Motions for the following reasons.

6 On March 27, 2019, the court entered its Memorandum Decision Amending Prior  
7 Decision After Trial on Contested Matter of the Chapter 7 Trustee's Motion Objecting to  
8 the Debtor's Claimed Homestead Exemption in Real Property Located at 329 Hawaii  
9 Avenue, Wilmington, CA and Ruling on Contested Matter of Chapter 7 Trustee's Motion  
10 Objecting to Debtor's Amended Claimed Homestead Exemption on Same Property and  
11 Tools of the Trade Exemption ("Memorandum Decision on Claimed Homestead and  
12 Tools of the Trade Exemptions") (Docket No. 364). On April 16, 2019, the court entered  
13 an Order Amending Prior Decision After Trial on Contested Matter of the Chapter 7  
14 Trustee's Motion Objecting to the Debtor's Claimed Homestead Exemption in Real  
15 Property Located at 329 Hawaiian Avenue, Wilmington, CA and Ruling on Contested  
16 Matter of Chapter 7 Trustee's Motion Objecting to Debtor's Amended Claimed  
17 Homestead Exemption on Same Property and Tools of the Trade Exemption (Docket  
18 No. 364) ("Order on Memorandum Decision on Claimed Homestead and Tools of the  
19 Trade Exemptions") (Docket No. 373). On August 23, 2019, the court entered its  
20 Memorandum Decision and Order thereon on Motions of Debtor to Alter or Amend  
21 Judgment, or for New Trial Pursuant to Federal Rule of Bankruptcy Procedure 9023 and  
22 to Amend Findings of Fact and Conclusions of Law Concerning Homestead Exemption  
23 Decision and Tools of the Trade Exemption Decision ("Memorandum Decision and  
24 Order on Motions to Alter or Amend").

25 In the Motions, the Debtor requests the court reconsider and vacate its  
26 "judgment", but he does not explicitly refer to which orders that he seeks to vacate as  
27 the "judgment." However, because the Debtor refers to the court's decisions on the  
28 homestead and tools of the trade exemptions in the Motions, he apparently means the

1 judgment on the contested matters decided in the Memorandum Decision on Claimed  
2 Homestead and Tools of the Trade Exemptions and Order thereon and the  
3 Memorandum Decision and Order on Motions to Alter or Amend entered on March 27,  
4 2019, April 16, 2019 and August 23, 2019. On the same day that the Debtor filed the  
5 Motions, on September 6, 2019, he filed a Notice of Appeal and Statement of Election  
6 to U.S. District Court ("Notice of Appeal") (Docket No. 462), appealing the court's  
7 judgment in the Memorandum Decision on Claimed Homestead and Tools of the Trade  
8 Exemptions and Order thereon and the Memorandum Decision and Order on Motions to  
9 Alter or Amend, which are the subjects of the Motions.

10 Filing of a notice of appeal generally confers jurisdiction on the appellate court  
11 and divests the trial court of jurisdiction over the matters appealed. *Griggs v. Provident*  
12 *Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(citations omitted); *Sumida v. Yumen*,  
13 409 F.2d 654, 657-658 (9th Cir. 1969)(citations omitted). Here, Debtor's filing of the  
14 notice of appeal on September 6, 2019 conferred jurisdiction on the appellate court, the  
15 United States District Court, over the matters appealed, and divested this court of  
16 jurisdiction over those matters, that is, the court's Memorandum Decision on Claimed  
17 Homestead and Tools of the Trade Exemptions and Order thereon and the  
18 Memorandum Decision and Order on Motions to Alter or Amend. Having been divested  
19 of jurisdiction over the matters appealed, the Memorandum Decision on Claimed  
20 Homestead and Tools of the Trade Exemptions and Order thereon and the  
21 Memorandum Decision and Order on Motions to Alter or Amend, due to the Debtor's  
22 filing of the notice of appeal, the court lacks jurisdiction to consider the Motions to  
23 vacate judgment over the matters appealed, and therefore, the court lacks jurisdiction to  
24 hear the Motions and thus denies the Motions for lack of jurisdiction.

25 Debtor in the Motions requests in the alternative that all proceedings in this  
26 bankruptcy case be stayed. The court denies this request for lack of good cause.

27 Because Debtor's filing of a notice of appeal deprives this court of jurisdiction  
28 over the appealed matters of the Memorandum Decision on Claimed Homestead and

1 Tools of the Trade Exemptions and Order thereon and the Memorandum Decision and  
2 Order on Motions to Alter or Amend and Debtor's alternative request that all  
3 proceedings in the bankruptcy case be stayed should be denied for lack of good cause,  
4 the court determines that further briefing and oral argument on the Motions are  
5 unnecessary, dispenses with them, vacates the hearings on the Motions noticed for  
6 October 1, 2019 at 2:30 p.m., takes the Motions under submission and files and enters  
7 this order disposing of the Motions. No appearances are required on the Motions on  
8 October 1, 2019 as the court will not call the Motions for hearing on that date.

9 IT IS SO ORDERED.

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25 Date: September 12, 2019



Robert Kwan  
United States Bankruptcy Judge