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FILED & ENTERED

SEP 29 2025

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY vandenst DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

PEOPLE WHO CARE YOUTH CENTER,
INC.,

Debtor.

Case No. 2:18-bk-10290-RK

Chapter 11

Adv. No. 2:18-ap-01139-RK

PEOPLE WHO CARE YOUTH CENTER,
INC.,

Plaintiff.

**BANKRUPTCY COURT'S REVISED
PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF FACT AFTER TRIAL
ON FIRST CAUSE OF ACTION OF
PLAINTIFF'S AMENDED COMPLAINT
(SLANDER OF TITLE)**

v.

AMMEC, INC., and GRETA CURTIS,

Defendants.

Trial Dates

January 28, 2021, February 18 and 19,
2021, January 19, 2022, February 24,
2022, June 29 and 30, 2022, June 16,
2023, and March 27, 2025

TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA, AND THE PARTIES TO THIS ADVERSARY PROCEEDING,
PLAINTIFF PEOPLE WHO CARE YOUTH CENTER, INC., DEFENDANTS AMMEC,
INC, AND GRETA CURTIS, AND THEIR COUNSEL OF RECORD.

Pursuant to Federal Rules of Bankruptcy Procedure 7052 and 9033, the
undersigned United States Bankruptcy Judge on behalf of the United States Bankruptcy
Court for the Central District of California after the trial of Plaintiff's First Cause of Action

1 for Slander of Title, and Third Cause of Action for Avoidance of Lien and related Fourth
2 Cause of Action for Declaratory Relief as to Avoidance of Lien in this adversary
3 proceeding hereby issues the following proposed findings of fact and conclusions of law
4 regarding Plaintiff's Amended Complaint containing its First Cause of Action remaining
5 for consideration by the United States District Court for the Central District of California.

6 Plaintiff's First Cause of Action for Slander of Title is a claim that arises under
7 nonbankruptcy California state law, and the Bankruptcy Court lacks authority to enter a
8 final judgment on such claim absent the consent of all parties, which has not been given.
9 *See Stern v. Marshall*, 564 U.S. 462 (2011).

10 When the trial of adversary proceeding was commenced, Plaintiff's First Cause of
11 Action for Slander of Title was the sole remaining claim in this adversary proceeding
12 which has not been adjudicated by the Bankruptcy Court. Previously, the Bankruptcy
13 Court adjudicated the other claims in this adversary proceeding on Plaintiff's motion for
14 summary adjudication, determining that those other claims arose under bankruptcy law,
15 and the Bankruptcy Court had authority to enter a final judgment on such claims.
16 However, in light of subsequent, intervening Ninth Circuit case law, the Bankruptcy Court
17 on its own motion reconsidered and modified its order on partial summary adjudication,
18 vacating its judgments in favor of Plaintiff on its third cause of action for lien avoidance
19 and its fourth cause of action for declaratory relief regarding lien avoidance. The
20 Bankruptcy Court's orders granting partial summary adjudication on Plaintiff's second
21 cause of action for claim disallowance and on its fourth cause of action for declaratory
22 relief regarding claim disallowance and entering a final judgment on such claims are now
23 final and nonappealable. Federal Rule of Bankruptcy Procedure 7054, making Federal
24 Rule of Civil Procedure 54(b) applicable to this adversary proceeding.

25 The Bankruptcy Court previously determined that Plaintiff's Second Cause of
26 Action for Disallowance of Claim, its Third Cause of Action for Avoidance of Lien and its
27 Fourth Cause of Action regarding Disallowance of Claim and Avoidance of Lien are
28 claims that arise under the Bankruptcy Code, and the Bankruptcy Court has authority to

1 enter a final judgment on such claims absent the consent of the parties. Since the
2 Bankruptcy Court's prior rulings on Plaintiff's Second Cause of Action for Disallowance of
3 Claim and Fourth Cause of Action as to Disallowance of Claim still stand, on September
4 22, 2023, the Bankruptcy Court having jurisdiction to enter a final judgment on these
5 claims entered a final judgment as to these claims by a separate order and judgment.
6 Subsequently, after further trial proceedings, having jurisdiction to enter a final judgment
7 on Plaintiff's Third Cause of Action for Avoidance of Lien and related declaratory relief in
8 the Fourth Cause of Action, the Bankruptcy Court is concurrently issuing findings of fact
9 and conclusions of law on these claims and entered a final judgment as to these claims.
10 Also subsequently, after further trial proceedings, not having jurisdiction to enter a final
11 judgment on Plaintiff's First Cause of Action for Slander of Title, the Bankruptcy Court
12 hereby issues these proposed findings of fact and conclusions of law on this claim for
13 consideration by the United States District Court, which has jurisdiction to enter a final
14 judgment on this claim.

15 INTRODUCTION

16 1. On January 28, 2021, February 18 and 19, 2021, January 19, 2022,
17 February 24, 2022, June 29 and 30, 2022 and June 16, 2023, the Bankruptcy Court
18 conducted a trial on the Amended Complaint [Adversary Proceeding Docket No. 44] in
19 this adversary proceeding¹ filed by Plaintiff People Who Care Youth Center, Inc. (Plaintiff
20 or Debtor) against Ammec, Inc. (Ammec or Defendant) and Greta Curtis (Curtis or
21 Defendant) (Ammec and Curtis, collectively, Defendants). The trial on these dates
22

23 ¹ On May 8, 2018, Plaintiff People Who Care Youth Center, Inc. filed an adversary
24 complaint against Defendants Greta Curtis and Ammec, Inc. for: (1) Slander of Title; (2)
25 Disallowance of Claim [11 U.S.C. § 502(b)]; (3) Avoidance of Lien; [FRBP 7001]; (4)
26 Declaratory relief; (5) Punitive Damages; and (6) Attorneys' Fees and Costs. Adversary
27 Proceeding Docket No. 1. On October 26, 2018, Plaintiff filed its Amended Complaint
28 with the same headings, but omitted certain material attached to the original complaint
which had been stricken by order of the Bankruptcy Court granting in part a motion to
strike. Adversary Proceeding Docket Nos. 40 and 48. These proposed findings of fact and
conclusions of law herein only relate to the First Cause of Action for Slander of Title in the
Amended Complaint.

1 focused on the First Claim for Relief in the Amended Complaint for Slander of Title.
2 However, because the Bankruptcy Court reconsidered its Partial Summary Adjudication
3 Order and vacated partial summary adjudication as to the Third Claim for Relief for
4 Avoidance of Lien and related claim for declaratory relief in the Fourth Claim for Relief,
5 the court reopened the evidence and scheduled further sessions of trial for adjudication
6 of these claims. On March 27, 2025, an additional session of trial was conducted to
7 address the remaining unadjudicated causes of action after the Bankruptcy Court's
8 modification of its order granting partial summary adjudication in favor of Plaintiff, which
9 set aside the granting of partial summary adjudication in favor of Plaintiff on the Third
10 Cause of Action for Lien Avoidance and the Fourth Cause of Action for Declaratory Relief
11 as to Lien Avoidance, and the prior sessions of trial did not address those claims.

12 2. The Bankruptcy Court received into evidence the trial declaration of witness
13 Eric Radley [Adversary Proceeding Docket No. 171], subject to the Bankruptcy Court's
14 rulings on evidentiary objections [Adversary Proceeding Docket No. 173], and heard his
15 testimony on cross-examination, re-direct examination and re-cross examination as noted
16 on the record at trial on February 18 and 19, 2021 and March 27, 2025.

17 3. The Bankruptcy Court received into evidence the trial declaration of witness
18 Barrington Radley [Adversary Proceeding Docket No. 170], subject to the Bankruptcy
19 Court's rulings on evidentiary objections [Adversary Proceeding Docket No. 174], and
20 heard his testimony on cross-examination, re-direct examination and re-cross
21 examination as noted on the record at trial on February 18, 2021.

22 4. The Bankruptcy Court received into evidence the trial declaration of witness
23 Michelle McArn (McArn) [Adversary Proceeding Docket No. 172], subject to the
24 Bankruptcy Court's rulings on evidentiary objections [Adversary Proceeding Docket No.
25 175], and heard her testimony on cross-examination, re-direct examination and re-cross
26 examination as noted on the record at trial on February 18 and 19, 2021, June 16, 2023
27 and March 27, 2025.

28 5. The Bankruptcy Court received into evidence the trial declarations of

1 witness Greta Curtis [Adversary Proceeding Docket No. 204], subject to the Bankruptcy
2 Court's rulings on evidentiary objections [Adversary Proceeding Docket No. 205], and
3 heard her testimony on cross-examination, re-direct examination and re-cross
4 examination as noted on the record at trial on February 18 and 19, 2021, June 30, 2022
5 .and March 27, 2025.

6 6. The Bankruptcy Court received into evidence the trial declaration of witness
7 Sherman Lee (Lee) [Adversary Proceeding Docket No. 167], subject to the Bankruptcy
8 Court's rulings on evidentiary objections [Adversary Proceeding Docket No. 195], and
9 heard his testimony on cross-examination, re-direct examination and re-cross
10 examination as noted on the record at trial on February 19, 2021.

11 7. The Bankruptcy Court heard direct testimony of the subpoenaed third-party
12 witness Rudy Trabanino at trial on January 18, 2021, and Defendants did not cross-
13 examine him as counsel for Defendant Ammec, Inc., declined the opportunity to cross-
14 examine the witness and Defendant Greta Curtis missed the opportunity to cross-
15 examine the witness because she appeared late for trial that day.²

16 8. The following exhibits from the *Amended Joint Pre-trial Stipulation as*
17 *Modified at the Hearing on Joint Pre-trial Conference; Order thereon (JPTS)*[Adversary
18 Proceeding Docket No. 162] were admitted into evidence, 2/19/21 Trial Transcript at
19 205:10-12:³

20 ² In their opposition to Plaintiff's proposed findings of fact after the last session of trial on
21 March 27, 2025, Defendants objected to Plaintiff's proposed findings of fact on grounds
22 that the trial testimony of Rudy Trabanino was inadmissible. Defendants['] Opposition to
23 Plaintiff['s] Proposed Findings of Fact and Conclusion[s] of Law, filed on June 13, 2025 at
24 15-17 [Adversary Proceeding Docket No. 456]. Defendants' objections to this testimony
25 are too late because they waived any such objections because counsel for Defendant
26 Ammec, Inc. expressly declined the opportunity to cross-examine the witness and did not
timely object when the witness was present for examination and Defendant Curtis failed to
timely object because she was inexcusable late for trial that day. 1/28/21 Trial Transcript
at 1:3-22:14.

27 ³ Citation to the trial transcripts in this adversary proceeding are in the format of
28 "[Month/Day/Year] Trial Transcript at [Page:Line-Line]" or, if the citation continues onto
a different page "[Page:Line- Page:Line]." Pages cited are the page numbers of the

Exhibit	JPTS ¶ No.	Plaintiff's Exhibit No.	Defendants' Exhibit No.
Recorded notice of Disputed Mechanic's Lien.	74, 81, 87	P-1	D-1
Email from Habitat for Humanity with attached Habitat for Humanity Monthly Total Sales Receipts for September, October, November 2017	75	P-2	N/A
One photograph of Habitat Restore pink "pull tag receipt" ticket	76, 83, 89	P-3	D-3
Two photographs of lumber purportedly at Habitat for Humanity	77	P-4	N/A
Nine photographs of lumber purportedly at Debtor's Property	78, 84, 90	P-5	D-4
Text Messages from Michelle McArn	79	P-7	D-6
Text Messages from Eric Radley	80	P-6	D-7
Appraisal of the 1500 W. Slauson Avenue, Los Angeles, CA building	82, 88	N/A	D-2
Habitat Restore "pink" pull tag hold ticket	83	P-3	D-3
Two photographs of Curtis's lumber inside 1500 W. Slauson Avenue, L.A., CA building before being affixed to the second story of the building	84, 91	See P-4	D-5
Pleading filed by Sherman Lee in the involuntary bankruptcy case of <i>In re Ammec, Inc.</i> , case number 1:16-bk-10598-MB (Bankr. C.D. Cal.) [Docket No. 142]	N/A	P-8	N/A
Deposition Transcript of Greta Curtis on March 25, 2019	N/A	P-10	N/A

transcripts, not the court's docket entry bates stamp page numbers. The parties in their papers refer to the Trial Transcripts as "Hr Tr" (Hearing Transcript). The Bankruptcy Court prefers not to use this abbreviation for the sake of clarity.

9. The following exhibits from the *Supplemental Joint Pre-trial Stipulation on Third Claim for Relief for Avoidance of Lien and Fourth Claim for Relief for Declaratory Relief* (SJPTS)[Adversary Proceeding Docket No. 414] were admitted into evidence, *Further Pretrial Order*, filed and entered on January 15, 2025 [Adversary Proceeding Docket No. 421]: :

Exhibit	SJPTS ¶ No.	Plaintiff's Exhibit No.	Defendants' Exhibit No.
Debtor's Preliminary Title Report.	93	N/A	Not provided at trial
Lending Express Conditional Approval Letter for Debtors first Loan.	94	N/A	D-21
Minute Order from Los Angeles Superior Court case number BC486919 Acon v. People Who Care Youth Center, Inc.	95	N/A	D-18
Pictures of lumber at Habitat before Curtis transported it to her lot.	96	N/A	D-22, D-23
Letter from William Tanner, Esq.	97	N/A	D-20
Statement of Information for Yes We Care Child Care	98	N/A	D-22

10. The Bankruptcy Court also heard the trial testimony of John-Patrick M. Fritz as noted on the record at trial on February 24, 2022, June 29 and 30, 2022 .and June 16, 2023.regarding Plaintiff's claim of attorneys' fees and litigation costs as pecuniary damages on its slander of title cause of action and received into evidence his declarations in support of Plaintiff's first and second motions for attorneys' fees and costs and the reply to Defendants' opposition to Plaintiff's second motion for attorneys' fees and costs and the exhibits attached thereto which set forth the billing entries for the claimed fees and the breakdown of costs, and the reformatted records of attorneys' fees [Adversary Proceeding Docket Nos. 146, 221, 273 and 275]..

1 11. Upon consideration of all evidence and argument presented at trial, and upon
2 those matters that the Bankruptcy Court may take judicial notice⁴ pursuant to Federal
3 Rule of Evidence 201, and upon those findings of facts and conclusions of law
4 established in the JPTS and SPTS, and after due deliberation and good cause appearing
5 therefor, and pursuant to Rule 52 of the Federal Rules of Civil Procedure, as incorporated
6 by Rule 7052 of the Federal Rules of Bankruptcy Procedure, the Bankruptcy Court issues
7 the following findings of fact and conclusions of law.

8 JURISDICTION

9 12. The Bankruptcy Court has jurisdiction over this adversary proceeding pursuant
10 to 28 U.S.C. §§ 157 and 1334.

11 13. Venue is proper before the Bankruptcy Court pursuant to 28 U.S.C. §§ 1408
12 and 1409.

13 14. Plaintiff's first cause of action for slander of title which is a noncore proceeding
14 arising under nonbankruptcy California state law, absent the consent of all parties, which
15 has not been given. See Defendants Greta Curtis and Ammec, Inc.'s Proposed Findings
16 of Fact and Conclusion[s] of Law in Support of First Cause of Action for Slander of Title in
17 the Amended Complaint Following Trial (Defendants' Proposed Findings) at 2 [Adversary
18 Proceeding Docket No. 269] ("Defendants do not dispute the court[']s jurisdiction over the
19 adversary proceeding but they do take issue with the Bankruptcy Court entering a
20 judgment in this matter and respectfully requested the Bankruptcy Court to refer the
21 matter to the District Court for a final judgment.").

22 15. On December 22, 2022, the Bankruptcy Court issued an Order Requesting
23 Statements Regarding Scope of Referral to United States District Court Pursuant to
24 Federal Rule of Bankruptcy Procedure 9033 [Adversary Proceeding Docket No. 314] in
25 order for the parties to address the Bankruptcy Court's ability to enter a final judgment in

26 ⁴ Plaintiff had separately and concurrently filed its request for judicial notice ("RJN")
27 with its original proposed findings and conclusions. Declaration of John-Patrick M. Fritz
28 in Support of Request for Judicial Notice in Support of Plaintiff's Proposed Findings of
Fact and Conclusions of Law After Trial [Adversary Proceeding Docket No. 219].

1 this adversary proceeding. In response to the Bankruptcy Court's order, Plaintiff and
2 Defendants filed responses [Adversary Proceeding Docket Nos. 316 and 317], on
3 January 6, 2023. Having considered the responses, the Bankruptcy Court rules as
4 follows.

5 16. Defendants expressly declined to consent to the Bankruptcy Court entering
6 final judgment in this adversary proceeding as indicated in the joint status report filed on
7 January 15, 2019 [Adversary Proceeding Docket No. 63] and in their proposed findings of
8 fact and conclusions of law after trial [Adversary Proceeding Docket No. 269]. Based on
9 Defendants' responses, they still do not consent to the Bankruptcy Court entering a final
10 judgment in this adversary proceeding. Since the slander of title claim is a noncore claim
11 arising under state law (that is, a claim being noncore does not involve a substantive right
12 arising under federal bankruptcy law), and subject to the Supreme Court's decision in
13 *Stern v. Marshall*, 564 U.S. 462 (2011), holding that an Article III tribunal (that is, the
14 United States District Court) is required to enter final judgment on a noncore claim, such
15 as Plaintiff's slander of title claim, the Bankruptcy Court as an Article I tribunal lacks
16 authority to enter final judgment on such a claim. The Bankruptcy Court may try such a
17 claim, but must submit proposed findings of fact and conclusions of law to the United
18 States District Court for *de novo* review pursuant to Federal Rule of Bankruptcy
19 Procedure 9033. 28 U.S.C. § 157(c)(1) and (2). *See also, Executive Benefits Insurance*
20 *Agency v. Arkison*, 573 U.S. 25 (2014). Accordingly, the Bankruptcy Court is issuing
21 separate proposed findings of fact and conclusions of law on Plaintiff's first cause of
22 action for slander of title for *de novo* review by the United States District Court pursuant
23 to Federal Rule of Bankruptcy Procedure 9033.

24 17. Plaintiff asserts that it largely agrees with the Bankruptcy Court's stated
25 position, but argues that Defendants have consented to the Bankruptcy Court's authority
26 to enter a final judgment on all causes of action based on their conduct after the filing of
27 the January 15, 2019 joint status report indicating their lack of consent to Bankruptcy
28 Court authority. Plaintiff contends that Defendants filed a motion for summary judgment
[Adversary Proceeding Docket No. 69] where they asked for final judgment, and

1 therefore, Defendants consented to the jurisdiction of the bankruptcy court to adjudicate
2 non-core, related proceedings despite self-serving and one-sided assertions of non-
3 consent. See *Wellness International Network, Ltd. v. Sharif*, 575 U.S. 665, 682-683
4 (2015). In the conclusion portion of Defendants' motion for summary judgment, they
5 argued that the Bankruptcy Court lacked jurisdiction to disallow their lien claim because
6 they did not file a proof of claim in the underlying bankruptcy case. Adversary
7 Proceeding Docket No. 69, 8:26-27. This was not an affirmative indication that
8 Defendants were consenting to Bankruptcy Court jurisdiction in this adversary
9 proceeding, though as previously discussed, while Defendants sought a favorable ruling
10 from the Bankruptcy Court on their summary judgment motion in asking that the
11 Bankruptcy Court grant summary judgment in their favor, technically speaking, they
12 should have requested that the Bankruptcy Court issue a report and recommendation to
13 the District Court that their summary judgment motion be granted and that the District
14 Court enter a final judgment on their motion. While this oversight is probably explained
15 by Defendants' lack of understanding of Bankruptcy Court jurisdiction, it does not
16 definitively indicate that they consented to Bankruptcy Court jurisdiction to enter a final
17 judgment.

18 18. Accordingly, while the Bankruptcy Court may hear Plaintiff's tort claim for
19 slander of title under nonbankruptcy law, it lacks authority to enter a final judgment on
20 such claim, and must issue and submit proposed findings of fact and conclusions of law
21 on that claim for de novo review by the United States District Court pursuant to 28 U.S.C.
22 §157(c)(1) and Federal Rule of Bankruptcy Procedure 9033, and is doing so concurrently
23 herewith..

24 19. However, the Bankruptcy Court has determined that it may enter a final
25 judgment on Plaintiff's Second, Third and Fourth Causes of Action, and the Bankruptcy
26 Court has entered a final judgment in favor of Plaintiff partial summary adjudication in its
27 favor on the Second Cause of Action for Claim Disallowance and the Fourth Cause of
28 Action as to Claim Disallowance. Moreover, the Bankruptcy Court has authority to enter
a final judgment on the Plaintiff's Third Cause of Action as to Lien Avoidance and Fourth

1 Cause of Action for Declaratory Relief as to Lien Avoidance, and therefore, the
2 Bankruptcy Court is issuing separate findings of fact and conclusions of law on these
3 claims.

4 **FINDINGS OF FACT⁵**

5 **A. The Parties**

6 20. Plaintiff People Who Care Youth Center, Inc., is a non-profit corporation, and
7 its mission is to provide child daycare and afterschool programs to low-income working
8 parents in South Central Los Angeles. JPTS at 2, Admitted/Adjudicated Fact No. 2
9 [Adversary Proceeding Docket No. 162].⁶

10 21. Plaintiff's primary asset is real property consisting of two commercial buildings
11 located at 1502 and 1512 West Slauson Avenue, Los Angeles, California 90047 (the
12 1502 Property and 1512 Property, respectively, and, collectively, the Property). JPTS at
13 2, Admitted/Adjudicated Fact No. 3 [Adversary Proceeding Docket No. 162].

14 22. Michelle McArn (McArn) is the president of the board of directors for Plaintiff.
15 Declaration of Michelle McArn (McArn Declaration), ¶ 2 [Adversary Proceeding Docket
16 No. 172].

17 23. Michelle McArn is married to Eric Radley. McArn Declaration, ¶ 5 [Adversary
18 Proceeding Docket No. 172]; 2/18/21 Trial Transcript at 115:1-2 (Eric Radley Testimony).

19 24. According to McArn, Eric Radley has helped her and the
20 Plaintiff with extensive renovation and repair of the Plaintiff's Property, and McArn
21 considers Eric to be an agent of the Plaintiff in many respects, including the repair and
22 renovation of the Property. McArn Declaration, ¶ 6 [Adversary Proceeding Docket No.
23 172]; *see also* 2/18/21 Trial Transcript at 237:1-23 (McArn testimony); 2/18/21 Trial
24 Transcript at 115:3- (Eric Radley testimony);

25 ⁵ To the extent any proposed findings of fact are recommended conclusions of law, the
26 Bankruptcy Court adopts them as such.

27 ⁶ The Joint Pretrial Stipulation listed admitted facts and facts adjudicated on Plaintiff's
28 motion for summary adjudication together. JPTS at 2-5 [Adversary Proceeding Docket
No. 162].

1 25. Eric Radley's cousin, Barrington Radley, has also helped the Plaintiff in its
2 renovations on the Property since 2017. McArn Declaration, ¶ 7 [Adversary Proceeding
3 Docket No. 172]; Declaration of Barrington Radley (Barrington Radley Declaration), ¶¶ 3,
4 7-9 [Adversary Proceeding Docket No. 170].

5 26. Eric Radley testified that he has approximately 30 years of handyman work
6 repairing buildings with his cousin, Barrington Radley. Eric Radley Declaration, ¶ 22
7 [Adversary Proceeding Docket No. 171].

8 27. Barrington Radley is a retired building inspector, and he is a builder of
9 commercial and residential properties with over 40 years of experience in building and
10 construction. Barrington Radley Declaration, ¶ 4 [Adversary Proceeding Docket No.
11 170].

12 28. Barrington Radley testified that he has extensive background, experience,
13 and expertise as a contractor, builder, and building inspector. Barrington Radley
14 Declaration, ¶¶ 4-6 [Adversary Proceeding Docket No. 170]; 2/18/21 Trial Transcript at
15 204:25-205:11 (Barrington Radley Testimony).

16 29. Greta Curtis (Curtis) is the president of Ammec, Inc. (Ammec). JPTS at 4,
17 Admitted Fact No. 22 [Adversary Proceeding Docket No. 162]; 2/18/21 Trial Transcript at
18 22:2-3 (Curtis stating to the court that "I am a principal of Ammec").

19 30. Greta Curtis was formerly a practicing attorney for 20 years before she was
20 disbarred. Curtis Declaration, ¶ 33 [Adversary Proceeding Docket No. 204]; McArn
21 Declaration, ¶¶ 14-18 [Adversary Proceeding Docket No. 172] (McArn testimony that she
22 had considered putting Curtis on Plaintiff's board before learning that Curtis had been
23 disbarred and that she allowed Curtis to store at Plaintiff's Property files from the closing
24 of Curtis's law office after Curtis lost her law license); 2/18/21 Trial Transcript at 43:22-
25 45:6 (colloquy between the court and Curtis in which she asserted that she could testify
26 as an expert in bankruptcy law, but admitting that she was now an unlicensed attorney,
27 and the court sustaining an objection to such purported expert testimony as improper).

28 31. Eric Radley and Greta Curtis were acquaintances who met in fall or winter of

1 2016 in the Clerk's Office at the courthouse in Torrance, California, where Eric Radley
2 was having difficulty looking up court records and Curtis approached him and offered to
3 help, telling him that she was an attorney; later, they exchanged contact information, and
4 Curtis told Eric Radley that if he ever needed legal help to give her a call. Eric Radley
5 Declaration, ¶¶ 5-7 [Adversary Proceeding Docket No. 171]; Trial Declaration of Greta
6 Curtis (Curtis Declaration) at 2, ¶2 [Adversary Proceeding Docket No. 204] ("I met
7 Plaintiff's agent, Eric Radley, in the Torrance courthouse."). At the time Curtis told Eric
8 Radley that she was a lawyer, she was no longer a lawyer, having been disbarred, and
9 there is no evidence that Curtis disclosed her disbarment to Eric Radley at the time.

10 32. Eric Radley did not call Curtis, but a few months later, Curtis called him up,
11 and he told Curtis about McArn's work with Plaintiff, that is, McArn having taking over
12 management of Plaintiff a month earlier, and telling Curtis about all of Plaintiff's problems,
13 including its debt problems with Acon Development, Inc., and Curtis told him that she
14 could help. Eric Radley Declaration, ¶¶ 8-10 [Adversary Proceeding Docket No. 171].

15 33. In the spring of 2017, Eric Radley introduced McArn to Curtis. McArn
16 Declaration, ¶ 8 [Adversary Proceeding Docket No. 172]; Eric Radley Declaration, ¶¶ 9-
17 11 [Adversary Proceeding Docket No. 171]. Curtis said to McArn that she was a lawyer
18 and that she could help Plaintiff with its financial problems, management, and refinancing
19 Plaintiff's debts with Acon Development, Inc. (Acon). McArn Declaration, ¶ 9 [Adversary
20 Proceeding Docket No. 172]. At the time Curtis told McArn that she was a lawyer in
21 2017, she was no longer a lawyer, having been disbarred earlier, and there is no
22 evidence that Curtis disclosed her disbarment to McArn at the time.

23 34. McArn gave Curtis Plaintiff's files, books, and records, so that Curtis could
24 help with Plaintiff's financial and legal issues and refinancing. McArn Declaration, ¶ 10
25 [Adversary Proceeding Docket No. 172]; Eric Radley Declaration, ¶¶ 9-11 [Adversary
26 Proceeding Docket No. 171].

27 **B. Procedural Background**

28 35. Plaintiff filed for bankruptcy protection on January 10, 2018 (the "Petition

1 Date”) by filing a voluntary petition for relief under Chapter 11 of the United States
2 Bankruptcy Code, 11 U.S.C. JPTS at 2, Admitted/Adjudicated Fact No. 1 [Adversary
3 Proceeding Docket No. 162].

4 36. When Plaintiff was attempting to refinance the Property, Plaintiff learned for
5 the first time that, on October 19, 2017 (the Recording Date), Curtis, either on behalf of
6 herself or on behalf of Ammec, recorded a “Claim of Lien” (Doc. No. 20171200769) (the
7 Lien) on the Property for \$40,000 allegedly related to construction work at the Property
8 (the Alleged Obligation). JPTS at 2, Admitted/Adjudicated Fact No. 4 [Adversary
9 Proceeding Docket No. 162].

10 37. On May 8, 2018, Plaintiff commenced this adversary proceeding (Adversary
11 Proceeding), bearing case number 2:18-ap-01139-RK, objecting to the claims of Ammec
12 and Curtis and seeking to void any lien that Defendants may have. JPTS at 5,
13 Admitted/Adjudicated Fact No. 26 [Adversary Proceeding Docket No. 162]; see also,
14 Complaint [Adversary Proceeding Docket No. 1].

15 38. On November 14, 2019, the Bankruptcy Court entered its *Order Granting*
16 *Motion for Partial Summary Adjudication of Plaintiff’s Amended Complaint* [Adversary
17 *Proceeding Docket No. 120*] (“Partial Summary Adjudication Order”), granting in favor of
18 Plaintiff and against Defendants partial summary adjudication of the Second, Third,
19 Fourth Causes of Action in the Complaint. Request for Judicial Notice (RJN), Exhibit 1,
20 Partial Summary Adjudication Order [Adversary Proceeding Docket No. 142].

21 39. On January 28, 2021, February 18 and 19, 2021, January 19, 2022, February
22 24, 2022, June 29 and 30, 2022 and June 16, 2023, the Bankruptcy Court conducted a
23 trial on Plaintiff’s First Cause of Action for Slander of Title (the trial transcripts are
24 docketed as Adversary Proceeding Docket Nos. 214, 215, 216, 301, 302, 330, 331 and
25 339.).

26 40. On September 26, 2023, the Bankruptcy Court filed its Proposed Findings of
27 Fact and Conclusions of Law, addressing Plaintiff’s First and Third Causes of Action and
28 Fourth Cause of Action as to Avoidance of Lien [Adversary Proceeding Docket No. 344].

1 41. On September 26, 2023, the Bankruptcy Court filed and entered an order for
2 entering a final judgment on Plaintiff's Second Cause of Action (Disallowance of Claim)
3 on its Fourth Cause of Action as to Disallowance of Claim and a final judgment thereon
4 [Adversary Proceeding Docket Nos. 345 and 346].

5 42. On September 26, 2023, the Bankruptcy Court filed and entered its Order
6 Modifying and Partially Vacating Order Granting Plaintiff Partial Summary Adjudication on
7 Its Amended Complaint [Adversary Proceeding Docket No. 342].

8 43. Pursuant to the Partial Summary Adjudication Order and the separate final
9 judgment thereon, Defendants are not entitled to any allowed claim against Plaintiff or its
10 bankruptcy estate in Plaintiff's bankruptcy case, and any proofs of claim filed by the
11 Defendants are deemed untimely and are disallowed pursuant to 11 U.S.C. § 502(b)(9).
12 JPTS at 5, Admitted/Adjudicated Fact No. 33 [Adversary Proceeding Docket No. 162];
13 Final Judgment on Plaintiff's Second Cause of Action (Disallowance of Claim [11 U.S.C.
14 § 502(b)] and Fourth Cause of Action (Declaratory Relief) as to Disallowance of Claim
15 [Adversary Proceeding Docket No. 346].

16 44. Based on the Partial Summary Adjudication Order, the Joint Pretrial
17 Stipulation stated that any and all liens asserted by the Defendants against the Property
18 are void and unenforceable. JPTS at 5, Admitted/Adjudicated Fact No. 34 [Adversary
19 Proceeding Docket No. 162]. However, in light of the modification and partial vacation of
20 the Partial Summary Adjudication Order in the court's order filed and entered on
21 September 22, 2023 [Adversary Proceeding Docket No. 342], this statement is no longer
22 a fact established by the Partial Summary Adjudication Order.

23 45. As a result of the Partial Summary Adjudication Order, the first cause of
24 action in the Complaint for slander of title was the only cause of action remaining for trial.
25 *See generally*, RJN, Exhibit 1, Partial Summary Adjudication Order [Adversary
26 Proceeding Docket No. 142]. However, in light of the Bankruptcy Court's order partially
27 modifying and vacating the Partial Summary Adjudication Order, Plaintiff's third cause of
28 action for lien avoidance and its fourth cause of action as to lien avoidance also remained

1 for adjudication at trial. Order Modifying and Partially Vacating Order Granting Plaintiff
2 Partial Summary Adjudication of Its Amended Complaint [Adversary Proceeding Docket
3 No. 342].

4 46. Because the initial sessions of trial in this adversary proceeding only pertained
5 to Plaintiff's first cause of action for slander of title and the parties did not have the
6 opportunity to present evidence on the third cause of action for avoidance of lien and the
7 fourth cause of action for declaratory relief as to avoidance of lien, the Bankruptcy Court
8 ordered that the evidence for trial be reopened and set a further session of trial for the
9 parties to offer testimony and other evidence on the claims other than the first cause of
10 action. Order to Show Cause re: Reconsideration of Proposed Findings of Fact and
11 Conclusions of Law and Reopening the Record for Further Argument in the Adversary
12 Proceeding, filed and entered on June 24, 2024 [Adversary Proceeding Docket No. 372];
13 Order Following Hearing on Order to Show Cause re: Reconsideration of Proposed
14 Findings of Fact and Conclusions of Law and Reopening the Record for Further
15 Argument in the Adversary Proceeding, filed and entered on July 25, 2024 [Adversary
16 Proceeding Docket No. 388]; Further Order Following Hearing on Order to Show Cause
17 re: Reconsideration of Proposed Findings of Fact and Conclusions of Law and
18 Reopening the Record for Further Argument in the Adversary Proceeding, filed and
19 entered on July 29, 2024 [Adversary Proceeding Docket No. 392; Further Trial
20 Scheduling Order, filed and entered on October 3, 2024 [Adversary Proceeding Docket
21 No. 407].

22 47. Pursuant to the Further Trial Scheduling Order [Adversary Proceeding Docket
23 No. 407], on October 30, 2024, the parties filed their Supplemental Joint Pre-Trial
24 Stipulation on Third Claim for Relief for Avoidance of Lien and Fourth Claim for Relief
25 [for] Declaratory Relief [Adversary Proceeding Docket No. 414] in which the parties
26 stated that they would offer the same evidence on these claims as they did in prior trial
27 sessions on the First Cause of Action for Slander of Title, that Defendants would cross-
28 examine Plaintiff's witnesses, Eric Radley and Michelle McArn, on their prior trial

1 testimony, and that Defendants would call additional witnesses and offer additional
2 exhibits as listed in the stipulation. .

3 48. On January 15, 2025, the Bankruptcy Court filed and entered its Further
4 Pretrial Order approving and adopting the parties' Supplemental Joint Pre-Trial
5 Stipulation on Third Claim for Relief for Avoidance of Lien and Fourth Claim for Relief
6 [for] Declaratory Relief, subject to specific rulings therein [Adversary Proceeding Docket
7 No. 421].

8 49. On March 27, 2025, the Bankruptcy Court conducted a further session of trial
9 specifically concerning Plaintiff's Third Cause of Action for Avoidance of Lien and Fourth
10 Cause of Action for Declaratory Relief as to Avoidance of Lien. (No trial transcript for that
11 session of trial is available as no party ordered it.)

12 **C. The Purchase of the Lumber ⁷**

13 50. Eric Radley and Barrington Radley devoted several months in 2017 and 2018
14 to repairing the Plaintiff's Property. Eric Radley Declaration, ¶ 23 [Adversary Proceeding
15 Docket No. 171]; Barrington Radley Declaration, ¶¶ 7-10 [Adversary Proceeding Docket
16 No. 170].

17 51. Eric Radley testified that Greta Curtis had told him that she wanted to build a
18 house for herself, and that he told Curtis that his cousin Barrington Radley had a lot of
19 building experience. Eric Radley Declaration, ¶ 13 [Adversary Proceeding Docket No.

20
21 ⁷ At the further session of trial on March 27, 2025, Eric Radley testified upon examination
22 of the parties on the purchase of the lumber from Habitat for Humanity, and the
23 transportation and disposition of the lumber from Habitat, and his testimony was
24 substantially consistent with his trial declaration and prior trial testimony. Audio
25 Recording of Trial Proceedings, March 27, 2025, 9:41 to 11:42 a.m, At the further session
26 of trial on March 27, 2025, Greta Curtis testified upon examination of the parties on the
27 purchase of the lumber from Habitat for Humanity, and the transportation and disposition
28 of the lumber from Habitat, and her testimony was substantially consistent with her trial
declaration and prior trial testimony. Audio Recording of Trial Proceedings, March 27,
2025, 2:11 to 2:48 p.m, As previously noted, there is no transcript for this session of trial
since no one ordered it. None of the parties cited the trial testimony and the audio
recording from the trial session on March 27, 2025 in their proposed findings of fact and
conclusions of law submitted afterwards [Adversary Proceeding Docket Nos. 452 and
454], apparently since the events and transactions covered were substantially the same as
in the prior sessions.

1 171].

2 52. Eric Radley took several trips to Habitat for Humanity ReStore (Habitat) to get
3 materials for renovating the Property, including carpet, linoleum, and many miscellaneous
4 items. Eric Radley Declaration, ¶ 24 [Adversary Proceeding Docket No. 171].

5 53. Eric Radley testified that on one trip to Habitat, he saw a large cache of
6 lumber in the parking lot for sale for \$4,000 and that over the course of ten days or so, he
7 negotiated down the price on the lumber to \$1,000. Eric Radley Declaration, ¶ 25
8 [Adversary Proceeding Docket No. 171].

9 54. According to Eric Radley, the large cache of lumber was approximately 50
10 panels of 12-foot, 14-foot, and 16-foot prefabricated lumber walls in a pile, in addition to
11 approximately ten small, short (8-foot or less) prefabricated lumber walls. Eric Radley
12 Declaration, ¶ 26 [Adversary Proceeding Docket No. 171]; Barrington Radley Declaration,
13 ¶ 19 [Adversary Proceeding Docket No. 170]. Barrington Radley explained at trial what
14 the prefabricated walls were when he was asked on cross-examination by Curtis:

15 Q. What do you mean by “prefab walls”?

16 A. Walls that were already constructed to do a prefab house, with a definite
17 floor plan layout, that they dismounted for some odd reason. And they
18 brought them back to Habitat and they donated them for whatever value
19 they could get for them, and you had a reasonable time to use it. Putting it
20 in perspective. That’s why I was telling you that.

21 Q. I’m sorry, I missed what you said on that part.

22 A. Using the ability of my knowledge. I’m a retired crafts rebuilding inspector.
23 2/18/21 Trial Transcript at 196:15-25 (Barrington Radley Testimony).

24 60. However, as further explained by Barrington Radley in his trial testimony in
25 answering another question from Curtis on cross-examination, the lumber has aged and
26 was bleached and Habitat had to show some viability in order to sell it:

27 Q. Okay. And although the – and although this wood had been outside, it was
28 still fungible or it was still in a good enough shape to build a housing

1 structure?

2 A. Well, technically, for them to sell it, they'd have to show some viability. But,
3 technically, the wood has aged and bleached. So there was some viability
4 if you would have got your project up within – I told you this, three to four
5 months. Otherwise, the city would redline it. I'm a building inspector. I
6 would tag it if you waited another year or two.

7 2/18/21 Trial Transcript at 201:18-202:2 (Barrington Radley Testimony).

8 61. Eric Radley told Greta Curtis about this deal on the lumber, and he suggested
9 to Greta Curtis that they could both buy the lumber, \$500 each, and split it so that she
10 could build a new house and so that Plaintiff could renovate the 1502 Property, and she
11 agreed. Eric Radley Declaration, ¶¶ 25-32 [Adversary Proceeding Docket No. 171];
12 2/18/21 Trial Transcript at 116:24-119:17 (Eric Radley Testimony).

13 62. On September 6, 2017, Greta Curtis, Eric Radley, and Barrington Radley, all
14 rode together in two vehicles, Curtis's Honda Accord and a Home Depot rental truck, and
15 met at Habitat to buy the lumber. Eric Radley Declaration, ¶¶ 25-32 [Adversary
16 Proceeding Docket No. 171]; 2/18/21 Trial Transcript at 129:4-18 (Eric Radley
17 Testimony); Curtis Declaration at 8, ¶¶ 23-24 [Adversary Proceeding Docket No. 204].

18 63. Eric Radley testified that on September 6, 2017, he made an oral agreement
19 with Greta Curtis on behalf of himself to jointly purchase a large pile of lumber. 2/18/21
20 Trial Transcript at 117:15-118:8, 127:23-128:22, 145:3-10 (Eric Radley Testimony); Trial
21 Exhibit P-3 (pull tag receipt for lumber dated 9/6/2017).

22 64. Eric Radley further testified that he intended to split the lumber "50/50" with
23 Greta Curtis, and he made the agreement with her to do so. 2/18/21 Trial Transcript at
24 117:15-20 (Eric Radley testimony); Eric Radley Declaration, ¶ 25-32 [Adversary
25 Proceeding Docket No. 171]. This testimony of Eric Radley is corroborated by his cousin,
26 Barrington Radley, who testified that he heard the conversation between his cousin Eric
27 Radley and Greta Curtis in the Habitat parking lot about the lumber in which Eric and
28 Greta Curtis agreed to buy the lumber jointly. Barrington Radley Declaration, ¶ 21

1 [Adversary Proceeding Docket No. 170]; 2/18/21 Trial Transcript at 192:12-17, 194:13-
2 196:9 (Barrington Radley Testimony).

3 65. According to Eric Radley, Greta Curtis told him that she did not have \$500
4 cash on hand for her 50-percent share of the lumber, so they made an agreement that
5 Eric would pay the full \$1,000 in cash to buy the lumber, but that Curtis would arrange for
6 and take care of the transportation of the lumber for the total \$1,000 that Eric was
7 contributing. Eric Radley Declaration, ¶¶ 28-32 [Adversary Proceeding Docket No. 171];
8 2/18/21 Trial Transcript at 119:1-17, 129:19-25, 168:21-170:5. 172:2-25 (Eric Radley
9 testimony). Eric Radley's testimony on this point is corroborated by the testimony of
10 Barrington Radley, who heard the conversation between Eric Radley and Curtis at
11 Habitat. Barrington Radley Declaration, ¶¶ 22-24 [Adversary Proceeding Docket No.
12 170].

13 66. Eric Radley and Barrington Radley testified that Greta Curtis stated that she
14 would arrange for the transportation of the lumber. Eric Radley Declaration, ¶¶ 30-31
15 [Adversary Proceeding Docket No. 171]; 2/18/21 Trial Transcript at 196:1-4 (Barrington
16 Radley testimony); Barrington Radley Declaration, ¶ 25 [Adversary Proceeding Docket
17 No. 170]; 2/18/21 Trial Transcript at 119:1-17 (Eric Radley testimony).

18 67. Eric Radley testified that he gave Greta Curtis \$1,000 in cash to buy the
19 lumber. Eric Radley Declaration, ¶ 32 [Adversary Proceeding Docket No. 171]. Eric
20 Radley's testimony on this point is corroborated by the testimony of his cousin Barrington,
21 who heard the conversation between Eric and Curtis at Habitat. 2/18/21 Trial Transcript
22 at 194:14-196:4 (Barrington Radley testimony). At trial, Curtis asked the following
23 questions, and Barrington gave testimony in response as follows:

24 Q: Did you see Eric Radley give me \$500?

25 A. No. I saw him give you a thousand dollars.

26 Q. Okay. And if the deal was he was going to pay 500 and I was going to pay
27 500, why did (indiscernible)?

28 A. That was my understanding.

1 Q. Well, but you were there. What was the conversation to cause him to give
2 me a thousand dollars?

3 A. Because you guys were acquiring the wood together. After you asked me if
4 this was a good deal, I said, absolutely, because it was 50 –

5 ***

6 THE WITNESS: It was 50 walls of various widths at eight foot in height.

7 There were doorways. All of it was two-by-four construction, and there was
8 a couple of plumbing walls, fire walls of two-by-six construction. So it was
9 practically two houses of a floor plan. And I thought it was a good deal.

10 And when she said, well, you think it's worth – I said, yes. I said this is
11 more than enough to get your floor plan started. Of course you're going to
12 need ceiling joists, floor joints, rafters and all that, but it's a good start.

13 Q. And so, did you go into the Habitat store with Eric Radley and I (
14 indiscernible)?

15 A. No. I was standing behind you guys.

16 Q. I'm – say that again. I'm sorry.

17 A. I was standing right behind you guys. Because I was kind of eager to find
18 out what was going to be your – their pricing for the lumber. It was used
19 lumber. The lumber was possibly eight months to a year old.

20 Q. Did you, did you see who paid for the lumber that day?

21 A. I saw Eric give you the money, and then you turned around and gave the
22 lady your credit card. And you guys spoke. I was right behind you, but you
23 guys were speaking at the time you were paying.

24 Q. Could you hear what we were saying?

25 A. Not absolutely, except for the fact that I know you said that, don't worry
26 about the transportation. I'll handle that. I'll get my brother with the flatbed
27 truck to move the lumber the next day.

28

1 *Id.* The Bankruptcy Court finds this testimony of Eric Radley and Barrington Radley to be
2 credible.

3 68. Greta Curtis in her trial testimony disputed the version of Habitat lumber
4 purchase transaction given by Eric and Barrington Radley in their trial testimony. Curtis
5 Declaration [Adversary Proceeding Docket No. 204]. According to Curtis, while she
6 admits that Eric Radley was the one who told her about the lumber, she purchased the
7 lumber on her own for herself, and not jointly with Eric Radley. Curtis Declaration at 8-9,
8 ¶¶ 23-26 [Adversary Proceeding Docket No. 204]. Curtis testified that when Eric Radley
9 told her about the lumber, she agreed that she would buy it because she wanted to use it
10 to do some new construction on a lot she owned, but that she never agreed that she
11 would give half of the lumber to Plaintiff as a donation. Curtis Declaration at 8-9, ¶¶ 23-26
12 [Adversary Proceeding Docket No. 204]. Curtis denied that there was any agreement or
13 “alleged partnership” between her and Plaintiff for the purchase of the lumber. Curtis
14 Declaration at 8, ¶ 24 [Adversary Proceeding Docket No. 204]. As Curtis stated in her
15 trial declaration, “I did not become aware of the alleged partnership PWC [People Who
16 Care] and I entered until I read Eric Radley’s trial declaration.” *Id.* Curtis testified that
17 she made the purchase of the lumber with her bank debit card for \$1,000 and that Eric
18 Radley did not give her \$1,000 in cash, or he or Plaintiff did not give her any amount,
19 towards the purchase of the lumber. Curtis Declaration at 8, ¶ 24 [Adversary Proceeding
20 Docket No. 204]; 2/19/21 Trial Transcript at 120:3-22 (Curtis Testimony) (Curtis stating
21 that after Barrington Radley told her the lumber was a good deal, she said that she had
22 the money and will get it, she went inside and used her credit card to pay for it, and that
23 “Eric [Radley] never gave me a dime for it.”).

24 69. At trial, in explaining the basis for Defendants’ mechanic’s lien, Curtis testified
25 that she had an agreement with Plaintiff to provide it construction materials. 2/18/21 Trial
26 Transcript at 67:16-68:4 (Curtis Testimony). According to Curtis, her version of the
27 agreement that she made on the day of the purchase of the lumber at the Habitat Store in
28 Bellflower, California, on September 7, 2017 with Eric Radley, Michelle McArn and

1 Barrington Radley was that she would donate some of the lumber panels she bought to
2 Plaintiff, but that she did not designate which ones Plaintiff could have or that she did not
3 tell them that they could take them that day, but that she did not donate because they did
4 not wait for her to donate as they stole the lumber first. 2/18/21 Trial Transcript at 68:5-
5 70:13 (Curtis Testimony).

6 70. Defendants argue that testimony of McArn who went to Habitat with her
7 husband Eric Radley to buy the lumber that “he had money in his pocket, thousand dollar
8 check” indicates that there was no cash exchanged since Eric Radley had brought a
9 check to Habitat. Defendants Greta Curtis and Ammec, Inc’s Objections to Plaintiff’s
10 Proposed Findings of Fact and Conclusions of Law in Support of the First Cause of
11 Action for Slander of Title in the Amended Complaint Following Trial (Defendants’
12 Objections to Plaintiff’s Proposed Findings) at 17-18 [Adversary Proceeding Docket No.
13 270], referring to McArn Testimony, 2/19/21 Trial Transcript at 26:20-24.

14 71. Although the testimony of the witnesses about the Habitat lumber purchase
15 transaction is conflicting in a number of respects, the following facts are undisputed by
16 the parties:

- 17 a. On September 6, 2017, there was a purchase of approximately 50
18 prefabricated wooden walls of lumber for the total purchase price of
19 \$1,000 from Habitat for Humanity ReStore. 2/18/21 Trial Transcript at
20 64:11-16 (Greta Curtis testimony); 2/18/21 Trial Transcript at 119:1-13
21 (Eric Radley testimony).
- 22 b. The total amount of lumber purchased was approximately 50
23 prefabricated wood wall panels. 2/18/21 Trial Transcript at 195:1-2
24 (Barrington Radley testimony); Eric Radley Declaration, ¶ 26 [Adversary
25 Proceeding Docket No. 171]; Curtis Declaration at 8-10, ¶ 23-32
26 [Adversary Proceeding Docket No. 204] (contending that Plaintiff by Eric
27 and Barrington Radley took 30 panels, half of the lumber).
- 28 c. Greta Curtis paid \$1,000 to Habitat for purchase of the wood using her

1 credit or debit card. 2/18/21 Trial Transcript at 195:21-22 (Barrington
2 Radley testimony); Curtis Declaration, ¶ 24 [Adversary Proceeding
3 Docket No. 204]; 2/18/21 Trial Transcript at 64:11-16 (Curtis
4 Testimony).⁸

5 72. Having considered the written and oral testimony of the witnesses about the
6 purchase of the lumber, Eric Radley, Barrington Radley, McArn and Curtis, the
7 Bankruptcy Court finds that the testimony of Eric Radley, Barrington Radley and McArn to
8 be more credible than the testimony of Curtis. Specifically, the Bankruptcy Court finds
9 that the testimony given by Eric Radley and Barrington Radley that Eric Radley and
10 Curtis agreed to purchase the lumber jointly, each to take half, and that Eric Radley gave
11 Curtis \$1,000 in cash for the purchase to be credible. Regarding the existence of the
12 agreement, it is undisputed that Eric Radley found the lumber at Habitat, negotiated the
13 price down to \$1,000 and told Curtis about the lumber deal. It is also undisputed that Eric
14 Radley was interested in using some of the lumber to help renovate the Plaintiff's
15 Property and that he knew that Curtis might be interested in some lumber to build on her
16 new property, and telling her would help get the deal of purchasing 50 panels from
17 Habitat for \$1,000 down from \$4,000. There is no plausible reason why Eric Radley and
18 Barrington Radley and McArn would have gone to Habitat with Curtis about the lumber
19 unless Eric Radley and/or Plaintiff would benefit from the purchase of the lumber, either
20 as a joint purchase by Eric Radley and a purchase by Curtis with a promise of a donation
21 of some lumber to Plaintiff. At the time of the purchase in September 2017, Curtis and
22 Eric Radley and McArn were on speaking terms, if not friends. See Curtis Trial
23 Declaration,, ¶¶ 17-18 [Adversary Proceeding Docket No. 204]; 2/18/25 Trial Transcript at
24 33:11-20 (Curtis stating that she and Eric Radley and Michelle McArn were friends at the

25 ⁸ The testimony of Rudy Trabanino, who was the Habitat store manager in Bellflower,
26 California in September 2017, corroborates the \$1,000 sales price because the store's sales
27 in the month of September 2017 were \$2,861.50, and the sales of the lumber could not
28 have exceeded that amount. 1/28/21 Trial Transcript at 6:18-9:19 (Testimony of Rudy
Trabanino). This testimony is of secondary importance because as noted herein, Curtis
admitted at trial that she only paid \$1,000 for the lumber.

1 time and that she purchased and supplied them with food); 2/18/25 Trial Transcript at
2 120:6-9 (Eric Radley stating as to Curtis that “we were friends”). Thus, when these
3 parties went to Habitat to look at the lumber available for purchase at a bargain price,
4 they had an understanding that some of the lumber would go to Eric Radley and/or
5 Plaintiff, and not just Curtis.

6 73. Although it is undisputed that Curtis was the person who used her debit or
7 credit card to make the actual purchase of the lumber from Habitat for \$1,000, the
8 Bankruptcy Court having heard the oral testimony of Eric Radley and Barrington Radley
9 at trial and observing their demeanor while testifying, finds their testimony is credible that
10 Eric Radley and Curtis orally agreed that they would buy the lumber jointly “50/50” and
11 that Eric gave Curtis \$1,000 in cash for the purchase. It is true that the testimony of a
12 cash transfer may lack some persuasiveness because there is no written documentation
13 of the transfer, but the Bankruptcy Court, having observed the demeanor of the
14 witnesses, gives credence to the testimony of Eric Radley and Barrington Radley that
15 Eric gave \$1,000 in cash to Curtis to be used towards the purchase. The Bankruptcy
16 Court especially gives credence to the testimony of Barrington Radley, who testified that
17 he overheard Eric Radley and Curtis making the oral agreement for a joint purchase of
18 the lumber and that he saw Eric give Curtis the \$1,000 in cash. While Eric Radley’s
19 share of the \$1,000 lumber purchase was only \$500, he gave Curtis \$1,000, and his
20 explanation of his giving her more than \$500 is credible, stating that she told him that she
21 did not have any cash with her, but that she would still take care of transportation of the
22 lumber so he gave her the \$1,000 to cover the purchase transaction, but then she
23 surprised him by taking the cash and pulling out her credit or debit card to pay for the
24 lumber. Regarding Defendants’ argument that based on McArn’s testimony about a
25 \$1,000 check, Eric Radley did not give Curtis \$1,000 in cash, the Bankruptcy Court does
26 not give credence to this argument because although McArn went to Habitat with Eric,
27 she did not go into the store and did not observe the actual purchase of the lumber, and
28 therefore, she was not a percipient witness of the purchase transaction and does not

1 have personal knowledge of who actually purchased the lumber.⁹ Eric Radley and
2 Barrington Radley were percipient witnesses to the purchase transaction, and the
3 Bankruptcy Court finds that their testimony that Eric Radley gave Curtis \$1,000 in cash
4 as his contribution for the purchase of the lumber to be based on personal knowledge
5 and credible.

6 **D. Moving a Portion of Lumber to Plaintiff's Property and Its Use by**
7 **Plaintiff**

8 74. Eric Radley and Barrington Radley testified that on the day of the lumber was
9 purchased, they took five small, prefabricated walls from the purchase and loaded them
10 into a pick-up truck (which is all that the truck could carry) and moved them to Plaintiff's
11 Property. 2/18/21 Trial Transcript at 197:17-21 and 202:6-10 (Barrington Radley
12 testimony); 2/18/21 Trial Transcript at 121:3-7, 122:14-24, 159:17 (Eric Radley
13 testimony); Eric Radley Declaration, ¶ 33 [Adversary Proceeding Docket No. 171];
14 Barrington Radley Declaration, ¶ 29 [Adversary Proceeding Docket No. 170].

15 75. Barrington Radley testified that in the parking lot at Habitat, Eric Radley told
16 Greta Curtis that he (Eric) and Barrington would take about five of the small prefabricated
17 walls at that time in the pick-up truck, and Curtis did not object. Barrington Radley
18 Declaration, ¶ 28 [Adversary Proceeding Docket No. 170]; 2/18/21 Trial Transcript at
19 202:3-19 (Barrington Radley Testimony); see also, 2/18/21 Trial Transcript at 159:7-14
20 (Eric Radley Testimony). In his direct testimony trial declaration, Barrington Radley
21 stated: "In the parking lot at Habitat, I heard Eric tell Greta that he and I would take about
22 five of the small walls now in the pick-up truck, and she did not object." Barrington
23 Radley Declaration, ¶ 28 [Adversary Proceeding Docket No. 170]. Eric Radley in
24 answering Curtis's question during cross-examination at trial whether he took lumber
25 away on September 6, 2017, the day of the Habitat purchase, he said: "Yes, right there –

26
27 ⁹ To the extent that McArn's testimony on this point is probative, it indicates that Eric
28 Radley took money to Habitat to make a purchase of lumber, and was not looking for a
donation from Curtis.

1 with you [i.e., Curtis] present.” 2/18/21 Trial Transcript at 159:7-14 (Eric Radley
2 Testimony).

3 75. According to Barrington Radley in his testimony at trial on cross-
4 examination by Curtis, she expressly consented to Eric Radley and him taking the five
5 small prefabricated lumber walls from the Habitat premises:

6 Q. Okay. And so, after we – purchased the lumber, for want of a better word,
7 you loaded up five panels on the Home Depot truck, is that right? ¹⁰

8 A It was my understanding that you said, go ahead and take what you need,
9 and we loaded up – I said, well, we can’t load but some short walls here.
10 And you said, take what you need, and then we’ll arrange for the pick up of
11 the remaining. The reason why –

12 Q. So –

13 a. -- the reason why I remember so precisely that we had to hurry up and pick
14 up the wood, was because you only had six days to pick up the wood. The
15 people at Habitat had given you and Eric six days to remove the wood.

16 Q. Then how do you know that?

17 A That’s what the guy said. The salesman that came out and tried to –
18 he said, well, you guys got to hurry up and get this stuff out of here.

19 2/18/21 Trial Transcript at 202:3-19 (Barrington Radley Testimony); see also, 2/18/21
20 Trial Transcript at 210:20-211:14 (Barrington Radley Testimony) (Barrington Radley
21 testifying that Curtis knew that he and Eric Radley were taking the five lumber walls to
22 Plaintiff because she said to them “take what you need now”). The Bankruptcy Court
23 finds the testimony of Barrington Radley and Eric Radley that on the day of the lumber
24 purchase on September 6, 2017, Curtis gave her express consent to them taking the five

25 ¹⁰ Curtis’s reference to “we” in starting her question to Barrington Radley as to the
26 purchase of the lumber may be a Freudian slip because she started to say when “we” (i.e.,
27 she and Eric Radley) rather than she purchased the lumber. As defined by the Merriam
28 -Webster Online Dictionary, “Freudian slip” is a noun meaning “a slip of the tongue that is
motivated by and reveals some unconscious aspect of the mind.” Link to definition at
<https://www.merriam-webster.com/dictionary/Freudian%20slip>.

1 lumber walls from Habitat to Plaintiff to be credible.

2 76. According to Eric Radley, he intended to give his share of the lumber to
3 Plaintiff. 2/18/21 Trial Transcript at 143:12-24,154:1-3 (Eric Radley testimony).

4 77. According to McArn, although her husband, Eric Radley, purchased the
5 lumber with his own money, she understood that he intended that his portion of the
6 lumber would be used to help Plaintiff with its renovations at the Property, which was
7 shown as that same day he and Barrington Radley loaded the five short, prefabricated
8 walls into the pick-up truck and drove them to Plaintiff's Property. 2/19/21 Trial Transcript
9 at 58:3-25 (McArn testimony).

10 78. Eric Radley and Barrington Radley testified that they used the lumber from
11 those five small, prefabricated walls to build five doorways for bathrooms at the 1502
12 Property and that was the extent of their use of the lumber, that is, they used all of this
13 lumber, none of it went to waste, and they did not build any drop-down ceilings,
14 bookcases, or additional walls. Eric Radley Declaration, ¶ 34 [Adversary Proceeding
15 Docket No. 171]; Barrington Radley Declaration, ¶ 30 [Adversary Proceeding Docket No.
16 170].

17 79. Curtis in her trial testimony disputed the version of move of the purchased
18 Habitat lumber to Plaintiff's Property given by Eric Radley and Barrington Radley in their
19 trial testimony. Curtis Declaration at 8-9, ¶¶25-27 [Adversary Proceeding Docket No.
20 204]. Curtis in her trial declaration testified that after she purchased the lumber, she left it
21 at the Habitat for Humanity premises "because of the large volume I needed a semi-
22 tractor trailer with a flat bed trailer to move the lumber panels." *Id.*, ¶25. Curtis further
23 testified the lumber was not moved until a month later when her brother Gregory Curtis
24 arranged for a semi-tractor to move the lumber to a secured space in a private yard with
25 another individual. *Id.* In her trial declaration, Curtis absolutely denied that she gave her
26 permission to Eric Radley, Barrington Radley or Plaintiff to take any of the lumber: "I
27 never gave Eric Radley, Barrington Radley nor Plaintiff permission to take any of my
28 lumber panels from the Habitat parking lot nor from the lot I secured after I moved the

1 lumber from Habitat either on September 6, 2017 or after I made the purchase.” *Id.*, ¶27.
2 Curtis also testified that she never agreed to donate any of the lumber to Plaintiff: “I never
3 agreed to give half of my lumber to Plaintiff nor did I agree to store 50% of the lumber
4 Plaintiff is claiming belonged to it in the Eric Radley trial declaration at ¶39.” *Id.*, ¶26.
5 Curtis testified that Eric Radley and Barrington Radley stole 30 lumber panels from her
6 over the course of a month, and asked at trial how she knew that, she said that Eric
7 Radley and Barrington Radley told her. *Id.*, ¶ 30; 2/18/21 Trial Transcript at 57:15-58:2
8 (Curtis testimony).

9 80. In support of Curtis’s testimony and Defendants’ position, Sherman Lee was
10 called as a witness who testified in his trial declaration that he was an acquaintance of
11 Curtis and helped her move the lumber from the Habitat premises to a yard in Compton,
12 California, on October 5, 2017. Trial Declaration of Sherman Lee [Adversary Proceeding
13 Docket No. 167]. Lee testified in his trial declaration that he saw some of the lumber in
14 Plaintiff’s building before he helped Curtis move the other lumber from the Habitat
15 parking lot on October 5, 2017. *Id.*, ¶18.

16 81. Having considered the written and oral testimony of the witnesses about the
17 move of some of the purchased lumber to Plaintiff’s Property on the date of the purchase
18 on September 6, 2017, Eric Radley, Barrington Radley, Curtis and Lee, the Bankruptcy
19 Court finds that the testimony of Eric Radley and Barrington Radley to be more credible
20 than the testimony of Curtis. Specifically, the Bankruptcy Court finds that the testimony
21 given by Eric Radley and Barrington Radley that Eric Radley told Curtis that they were
22 taking some of the lumber in the pickup truck they drove to Habitat and that she did not
23 object, telling Eric Radley to take what he needed, to be credible, and this shows that
24 Curtis gave her express consent to Eric Radley to take the five prefabricated lumber walls
25 as part of his 50 percent share of the jointly purchased lumber, or alternatively, she was
26 donating those walls to him for Plaintiff. It is undisputed that Eric Radley had negotiated
27 the deal with Habitat for the lumber and told Curtis about it, that is, Eric Radley and Curtis
28 were still on good terms, and that they and Barrington Radley all met at Habitat and were

1 together when the lumber was eventually purchased there. As stated previously, the
2 Bankruptcy Court finds that the purchase of the lumber was jointly by Eric Radley and
3 Curtis. Plaintiff's version of the facts that after the joint purchase of the lumber from
4 Habitat, Eric Radley took some of the lumber he purchased with Curtis after telling her
5 that he was taking some of it and that she expressly consented for him to do so is more
6 consistent with the evidence than Curtis's version of the facts. Curtis's version of the
7 facts is essentially that Eric Radley induced Curtis to buy the lumber from Habitat, so that
8 he and Barrington Radley could lie in wait until she left the Habitat premises after the
9 purchase and steal some lumber for Plaintiff without her knowledge and consent.
10 Curtis's version of the facts is not credible in light of the state of the parties' relationship
11 at the time that they were on speaking, if not good, terms. The parties all knew that they
12 were going to Habitat together for the purchase of lumber, also together, and Eric Radley
13 brought \$1,000.00 for the purchase of the lumber and was prepared to take some of his
14 share of the lumber right after purchase, and Curtis was not as prepared to take her
15 share of the lumber after their purchase from the Habitat premises.

16 82. The Bankruptcy Court having heard the testimony of Eric Radley and
17 Barrington Radley at trial and observing their demeanors while testifying, finds their
18 testimony is credible that Eric Radley told Curtis that he was taking some of the lumber
19 and that she did not object, telling him to take what he needed, expressly consenting to
20 his removal of this lumber. That the portion of the lumber that Eric Radley took with
21 Barrington Radley's assistance, that is, the five wood panels that fit in the pickup truck
22 they drove to Habitat, was only a small portion of the purchased lumber, is consistent
23 with their testimony that Eric Radley and Curtis agreed to make a joint purchase.
24 Moreover, the testimony of Eric Radley and Barrington Radley is credible also because
25 the amount of lumber that Eric Radley claimed and took on the date of the purchase was
26 certainly less than half of the lumber that Eric Radley was entitled to in the joint purchase.

11

E. Moving Lumber to the Compton Storage Lot

83. According to Barrington Radley, on a later date, the remaining portion of Eric Radley's share of the lumber was loaded with a forklift onto a flatbed truck and moved to a lot in Compton, California. 2/18/21 Trial Transcript at 202:21-204:11 (Barrington Radley testimony).

84. According to Eric Radley and Barrington Radley, they assisted Greta Curtis and a few other men to load approximately half of the remaining lumber which Eric

¹¹ The Bankruptcy Court has considered Defendants' arguments that the testimony of Eric Radley should not be believed because he is a convicted felon. Defendant's Findings of Fact and Conclusions of Law After March 27, 2025 Continued Trial, filed on May 30, 2025, at 3, 15-18, 32-33 [Adversary Proceeding Docket No. 454]; Defendants['] Opposition to Plaintiff['s] Proposed Findings of Fact and Conclusion[s] of Law, filed on June 13, 2025 at 19-22 [Adversary Proceeding Docket No. 456]. Defendants sought to Admit two exhibits showing two felony convictions of Eric Radley, Defendants' Exhibits D-11 and D-12, but neither exhibit was identified on the joint pretrial stipulation or the pretrial order, but the Bankruptcy Court overruled Plaintiff's objections to the exhibits, which would be allowed for impeachment only. 2/18/21 Trial Transcript at 4:25-12:22. One conviction was in 1989 for possession for sale of phencyclidine for sale, and the case was dismissed in 2001. Defendants' Exhibit D-12. This conviction is inadmissible under Federal Rule of Evidence 609 because it is more than 10 years old, its probative value was minimal and did not outweigh any prejudicial value and did not involve false statements or acts of dishonesty. In any event, there was no cross-examination of the witness on this conviction. The other conviction was based on a plea of nolo contender in 2009 for identity theft under California Penal Code 472 for which the witness was still on probation in 2013 and there may be an unresolved probation compliance issue. Defendants' Exhibit D-12. This conviction is admissible under Federal Rule of Evidence 609(a)(2). The witness was examined on this conviction by Defendants on cross-examination and by Plaintiff on redirect examination. 2/18/21 Trial Transcript at 150:4-18, 176:16-179:13 (Eric Radley Testimony). According to the witness, he committed identity theft by using another person's "buddy pass" to buy an airplane ticket without that person's knowledge or consent, and as reflected in the sentencing court's minute order, he was ordered on probation and to pay restitution of \$200. 2/18/21 Trial Transcript at 176:16-179:13 (Eric Radley Testimony); Defendants' Exhibit D-12. After the evidence of the 2009 conviction was admitted, the court has taken it into consideration as the witness's credibility still remained for the court as the trier of fact to consider. *FDIC v. Jeff Miller Stables*, 573 F.3d 289, 295 (6th Cir. 2009) (observing "However, [Federal Evidence] Rule 609 contains no language requiring the court to necessarily draw the inference that the witness's testimony is untrue.").

1 considered as his, using a forklift onto the flatbed truck to be transported to the lot in
2 Compton and unloaded it there. Eric Radley Declaration, ¶¶ 35-38 [Adversary
3 Proceeding Docket No. 171]; 2/18/21 Trial Transcript at 137:21-23, 159:15-161:14 (Eric
4 Radley Testimony); Barrington Radley Declaration, ¶¶ 31-34 [Adversary Proceeding
5 Docket No. 170].

6 85. The witnesses in their trial testimony either could not remember when the
7 lumber was moved to the Compton lot or disagreed as to whether the lumber was moved
8 there in September or October 2017. 2/19/21 Trial Transcript at 2/19/21 at 144:15-21
9 (Curtis Testimony) (Curtis stating that she moved the lumber walls from Habitat on
10 October 5 and 6, 2017);¹² Trial Transcript at 170:19-171:9 (Sherman Lee testimony); Eric
11 Radley Declaration, ¶ 35 [Adversary Proceeding Docket No. 171] (testifying the move
12 was approximately a week after purchase); 2/18/21 Trial Transcript at 202:3-204:11
13 (Barrington Radley Testimony). According to Barrington Radley, the lumber was moved
14 with several days of the purchase because Eric Radley and Greta Curtis only had six
15 days to move the lumber from Habitat because he heard the salesperson say “you guys
16 got to hurry up and get this stuff out of here.” 2/18/21 Trial Transcript at 202:3-204:11
17 (Barrington Radley Testimony). Most likely, the lumber was moved in September 2017
18 because the Habitat ReStore pink pull tag for the lumber which the parties rely upon
19 stated that the purchase, the lumber, must be picked up by “9/12,” or September 12,
20 2017, and there is no indication in the record that Habitat extended that deadline. Habitat
21 ReStore pink pull tag, Plaintiff’s Exhibit P-3, Defendants’ Exhibit D-3. September makes
22 more sense in that sellers want their customers to retrieve their purchases promptly from
23 the sellers’ premises as indicated on the pull tag, and the Bankruptcy Court finds that

24 ¹² Curtis testified on when she moved the lumber walls from Habitat: “Q. When did you
25 move the wood walls?” [Objection from Plaintiff’s counsel overruled.] THE WITNESS:
26 It was a two-day process. It was September – I mean, I’m sorry, October 5th and 6th,
27 because I had to get a truck, and I had to secure that (indiscernible).” 2/19/21 Trial
28 Transcript at 144:15-21 (Curtis Testimony). Curtis’s first reference to the move date as
September 2017 may also be a Freudian slip as her official position is October in
comparison to the testimony of Plaintiff’s witnesses that her move of the lumber was in
September.

1 Curtis's move of lumber from Habitat to Compton took place in September, several days
2 after the purchase on September 6.

3 86. Eric Radley testified that he considered the first half of the lumber that he and
4 Barrington Radley had just helped to move to the Compton lot to be his or Plaintiff's half
5 of the lumber, and so he and Barrington were done with the moving process as far as his
6 or Plaintiff's half of the lumber was concerned, particularly as Barrington Radley had
7 already showed Greta Curtis and her brother how to load the lumber with the forklift. Eric
8 Radley Declaration, ¶ 39 [Adversary Proceeding Docket No. 171].

9 87. Eric Radley testified that he chose to store his remaining half of the lumber at
10 the Compton lot because the lumber could not all be stored at Plaintiff's Property
11 because of risk of theft and vandalism, in addition to the impracticability of vehicles
12 having to move in and out of Plaintiff's parking lot. 2/18/21 Trial Transcript at 173:5-23
13 (Eric Radley testimony).

14 88. Eric Radley and Barrington Radley testified that neither Plaintiff nor its agents
15 took any wood other than the five small, prefabricated wood walls that had been originally
16 taken in the pick-up truck on the date of purchase. 2/18/21 Trial Transcript at 120:24-
17 125:15, 132:15-23 (Eric Radley testimony); 2/18/21 Trial Transcript at 213:15-214:19
18 (Barrington Radley testimony); Barrington Radley Declaration, ¶ 39 [Adversary
19 Proceeding Docket No. 170].

20 89. Curtis in her trial testimony disputed the version of the lumber being moved
21 from Habitat to Compton was owned in part by Eric Radley, and not wholly owned by her,
22 given by Eric Radley and Barrington Radley in their trial testimony. Trial Declaration of
23 Greta Curtis (Curtis Declaration) [Adversary Proceeding Docket No. 204]. Curtis testified
24 in her trial declaration that she purchased the lumber from Habitat by and for herself, and
25 not jointly with Eric Radley, and that she left the lumber at Habitat after the purchase on
26 September 6, 2017 because the lumber was too voluminous to move without a tractor
27 trailer. *Id.*, ¶ 25. Curtis further testified that her brother Gregory Curtis arranged for a
28 semi tractor trailer with a flat bed trailer to move the lumber a month later to a private

1 yard after she and her brother secured space in that yard. *Id.* In her trial declaration,
2 Curtis testified that she “counted the lumber panels with my driver before the move day
3 on September 8, 2017.” *Id.*, ¶31. This statement by Curtis about September 8, 2017 is
4 unclear whether she was referring to the day she counted the lumber panels or the day
5 the lumber was moved. Curtis also testified about her count of the lumber panels: “When
6 we did move the lumber panels we were short by approximately 30.” *Id.*, ¶30. Regarding
7 these allegedly missing 30 panels, Curtis stated in her trial declaration: “I filed the
8 mechanic’s lien against Plaintiff’s real property because its’ [sic] agents, Eric Radley and
9 Barrington Radley, stole over 30 lumber panels from me in the course of a month.” *Id.*,
10 ¶30.

11 90. Defendants’ witness, Sherman Lee, testified in his trial declaration that on
12 October 5, 2017, he assisted Curtis in moving lumber from Habitat to a yard in Compton,
13 California, and that Eric Radley and Barrington Radley were with her at the Compton
14 vacant yard and that they also assisted in moving the lumber from Habitat to the
15 Compton lot. Lee Trial Declaration at 2, ¶6. Lee further testified that both Eric Radley
16 and Barrington Radley helped him and several other men in removing the lumber from a
17 40 foot flatbed truck that she and her brother Gregory Curtis rented to move the lumber
18 and that they made two trips on October 5, 2017 and unloaded the flatbed truck twice.
19 *Id.*, at 3 ¶9. Lee also testified that on October 6, 2017, he reported to the Habitat store to
20 complete the move of the lumber to the vacant lot in Compton, but Eric Radley and
21 Barrington Radley did not appear to help with moving the remaining lumber. *Id.* at 3, ¶
22 10. Lee testified it took two days to move the lumber for Curtis to a lot in Compton.
23 2/19/21 Trial Transcript at 172:6-7 (Lee Testimony) However, Lee testified that he did not
24 recall when he and the others moved the lumber to the Compton lot for Curtis that it was
25 after August and could have been September, October or November. 2/19/21 Trial
26 Transcript at 170:19-171:6 (Lee Testimony). Based on Lee’s testimony, the remaining
27 lumber at Habitat was moved for Curtis in two days, which is consistent with Curtis’s
28 testimony that the process for her moving the remaining lumber of Habitat took two days.

1 2/19/21 Trial Transcript at 144:15-21 (Curtis Testimony).

2 91. Having considered the written and oral testimony of the witnesses about the
3 move of the purchased lumber remaining at Habitat to a private yard in Compton,
4 California, secured by Curtis on October 5 and 6, 2017, Eric Radley and Barrington
5 Radley, Curtis and Lee, the Bankruptcy Court finds that the testimony of Eric and
6 Barrington Radley to be more credible than the testimony of Curtis. Specifically, the
7 Bankruptcy Court finds that the testimony given by Eric Radley and Barrington Radley
8 that they worked with Lee and the other men that were helping Curtis move the lumber
9 from Habitat to Compton, which included the remaining lumber in Eric Radley's one-half
10 share, and that they were concerned about the security of the lumber if stored at the
11 Plaintiff's Property. As stated previously, the Bankruptcy Court finds that the purchase of
12 the lumber was joint by Eric Radley and Curtis.

13 92. Plaintiff's version of the facts that after the joint purchase of the lumber from
14 Habitat, Eric Radley with his cousin Barrington Radley moved his remaining lumber to the
15 Compton lot with Curtis's one-half share with the assistance of Curtis's helpers is more
16 consistent with the evidence than Curtis's version of the facts. Curtis's version of the
17 facts is essentially that Eric Radley and Barrington Radley stole 30 wood panels from her,
18 though admittedly, they helped move the lumber, which she contends was all hers to the
19 Compton lot which she had arranged for. Curtis's version of the facts is not credible in
20 light of the state of the parties' relationship at the time that they were on speaking, if not
21 good, terms, and they were helping each other move the lumber from Habitat after they
22 made the joint purchase. The parties all knew that after they made the purchase from
23 Habitat, they had to move the lumber before they could use it, and they worked together
24 to move the lumber from Habitat. If Curtis had counted the lumber panels with her driver
25 on September 8, 2017 and found that there were 30 missing lumber panels as she
26 testified, it would seem that she would have confronted Eric Radley and Barrington
27 Radley about her suspicions that they took her lumber as soon as she had her suspicions
28 rather than letting them, the alleged thieves, help move the lumber to the Compton lot a

1 month later on October 5, 2017. It is undisputed that Eric Radley and Barrington Radley
2 and Curtis were at the Compton lot for moving lumber there from Habitat after the
3 purchase on September 6, 2017, and there is no testimony or evidence that Curtis
4 shared her current suspicions with them that they stole lumber from her or demanded
5 return of the lumber to her or some sort of accounting. Lee's testimony that Eric Radley
6 and Barrington Radley only showed up to move the lumber on only one of the two days of
7 moving the lumber for Curtis is consistent with their testimony that they were only helping
8 to move the remaining part of Eric's one-half share of the lumber and were not
9 participating in the move of the lumber after Eric's share had been moved to the lot.
10 Moreover, the testimony of Curtis and Lee and Defendants' physical evidence of
11 photographs do not substantiate Curtis's claim that Eric Radley and Barrington Radley
12 took 30 lumber panels, theft or not. Defendants' position on the nature of the move of the
13 lumber from Habitat to Compton is less credible than Plaintiff's position.

14 **F. Moving and Storing the Other Half of the Lumber**

15 93. Eric Radley and Barrington Radley testified that about a week or so after the
16 purchase of the lumber, they went back to Habitat for other renovation materials for the
17 1502 Property, and they discovered that all of the lumber was now gone from Habitat,
18 and there were only a few of the small, short wall panels left there. Eric Radley
19 Declaration, ¶ 40 [Adversary Proceeding Docket No. 171]; 2/18/21 Trial Transcript at
20 206:10-207:13 (Barrington Radley Testimony).

21 94. Eric Radley and Barrington Radley testified that they found the lumber at the
22 Compton vacant lot, left out in the open, but surrounded by a fence and locked. Eric
23 Radley Declaration, ¶ 41 [Adversary Proceeding Docket No. 171]; Barrington Radley
24 Declaration, ¶ 36 [Adversary Proceeding Docket No. 170]; 2/18/21 Trial Transcript at
25 207:14-210:19 (Barrington Radley Testimony).

26 95. Barrington Radley and Eric Radley testified that they went to the vacant lot in
27 Compton several times trying to get the Plaintiff's half of the lumber, but the gate was
28 always locked, and they could not get Greta Curtis to have someone unlock it for them.

1 Eric Radley Declaration, ¶ 42 [Adversary Proceeding Docket No. 171]; Barrington Radley
2 Declaration, ¶ 37 [Adversary Proceeding Docket No. 170]. Eric Radley testified that he
3 asked Curtis for a key to the lot several times, and although she said she would give him
4 one, she never did. 2/18/21 Trial Transcript at 140:13-142:13 (Eric Radley testimony).

5 96. Barrington Radley and Eric Radley testified that a year later, they went back
6 to the lot in Compton, and the lumber was still there, damaged beyond repair by being left
7 out in the weather. Eric Radley Declaration, ¶ 43 [Adversary Proceeding Docket No.
8 171]; Barrington Radley Declaration, ¶ 38 [Adversary Proceeding Docket No. 170].

9 97. In her trial declaration, Greta Curtis disputed the testimony of Eric Radley and
10 Barrington Radley that she denied them or Plaintiff access to the Compton lot. Curtis
11 Declaration at 10, ¶ 29. Curtis testified in her trial declaration: “I never received a request
12 from Eric Radley nor Michelle Mcarn to access the Oak Street lot where I stored my
13 lumber panels. Barrington Radley asked me after I moved the lumber there who had a
14 key and I told him my brother and I.” *Id.*

15 98. Having considered the written and oral testimony of the witnesses about the
16 Curtis’s denial of access of Eric Radley and Barrington Radley to the Compton lot for
17 retrieval of the remaining lumber in Eric’s one-half share of the lumber, Eric Radley and
18 Barrington Radley and Curtis, the Bankruptcy Court finds that the testimony of Eric
19 Radley and Barrington Radley to be more credible than the testimony of Curtis. Curtis in
20 her trial testimony admitted that Barrington Radley asked her who had the key to the lock
21 at the lot and that she told him that she and her brother were the ones who had the key.
22 From this admission, the Bankruptcy Court infers that Barrington Radley had asked
23 Curtis for access to the lot and that she refused. The Bankruptcy Court also finds
24 credible the testimony of Eric Radley and Barrington Radley that Curtis refused them
25 access to the lot when they sought to retrieve the remaining lumber in Eric’s one-half
26 share of the lumber and that Eric had requested Curtis to give him a key to access the lot
27 several times, but although she said would give him one, she never did.

28 99. The significance of Curtis’s denial of access of Eric Radley and Barrington

1 Radley to the Compton lot to retrieve lumber is that it corroborates the evidence that Eric
2 Radley purchased the lumber with Curtis and believed that he purchased the lumber and
3 was requesting Curtis to give his access to the locked Compton lot to retrieve his share.
4 Curtis's position is that Eric and Barrington Radley stole the purchased lumber which was
5 all hers, but she admitted that at least, Barrington Radley had inquired about access to
6 the Compton lot and she told him that she had the key to the lot, which indicates that he
7 asked her for access to the lot. Based on Curtis's testimony, Defendants' position is that
8 the Radley cousins were asking her to unlock the Compton lot so they can steal more
9 lumber from her, which does not make any sense as it begs the question why would they
10 need to ask her for access to the lot if they were stealing more lumber from her.
11 Defendants' position on the reason for denial of access is simply not credible.

12 **G. Defendants' Filing of the Lien**

13 100. On October 19, 2017, Greta Curtis, either on behalf of herself or on behalf
14 Of Ammec, recorded the Lien on the Property. Lien, Trial Exhibit P-1 (showing recording
15 date of October 19, 2017); JPTS at 2, Admitted/Adjudicated Fact No. 4 [Adversary
16 Proceeding Docket No. 162].

17 101. The Lien expressly asserted: "In accordance with an agreement to provide
18 labor and/or material, I did furnish the following labor and/or materials: 20 Prefabricated
19 Wood Wall Panels @ a cost of \$2,000 a piece... of a total value of \$40,000." Lien, Trial
20 Exhibit P-1 at 2.

21 102. The Lien asserted that the labor and/or material described therein was
22 furnished on the property commonly known as 1500 W. Slauson Avenue, Los Angeles,
23 CA 90047, owned by People Who Care Youth Center, Inc., with a copy of the property's
24 legal description attached, and that Greta Curtis, as President of Ammec, Inc., thereby
25 claimed a lien under the laws of the State of California for the allegedly unpaid amount of
26 \$40,000 for labor and/or material allegedly furnished on the property owned by People
27 Who Care Youth Center, Inc., starting on September 16, 2017 and ending on October 13,
28 2017. Lien, Trial Exhibit P-1.

1 103. The Lien was signed under a declaration of penalty of perjury under the
2 laws of the State of California by Greta Curtis, as President of Ammec, Inc., listing
3 Ammec as the person claiming the Lien. Lien, Trial Exhibit P-1 at 3.

4 104. The Certificate of Service that a copy of the Lien was mailed to People
5 Who Care Youth Center, Inc., on October 17, 2017, was completed and signed by Greta
6 Curtis. Lien, Trial Exhibit P-1 at 3.

7 **H. Defendants Refuse to Remove the Lien**

8 105. McArn testified that Plaintiff, through her and Eric Radley's efforts, was
9 trying to refinance the Property, and Eric and McArn learned of the Lien for the first time
10 in late 2017 when they received a phone call from Lending Xpress, the Plaintiff's
11 refinancing broker, about the Lien. McArn Declaration, ¶ 22 [Adversary Proceeding
12 Docket No. 172]; Eric Radley Declaration ¶ 53 [Adversary Proceeding Docket No. 171].

13 106. McArn and Eric Radley called Greta Curtis and left a voicemail saying to
14 remove the Lien by noon or that they would file a police report at the 77th Division police
15 station, which is the station nearest to the Property. McArn Declaration, ¶ 23 [Adversary
16 Proceeding Docket No. 172].

17 107. The Lien was notarized. Lien, Trial Exhibit P-1 at 5-6.

18 108. McArn and Eric Radley went to the notary's office and told the notary that
19 If the Lien was not removed that they would file a police report on account of the Lien
20 being false. 2/18/21 Trial Transcript at 162:14-20 and 165:11-17 (Eric Radley Testimony).

21 109. McArn testified that while she and Eric Radley were going to the police
22 station, Curtis had gone to the sheriff station, each side attempting to file reports against
23 each other for alleged theft of each other's share of the lumber and, in Plaintiff's case,
24 removal of the Lien, as well. 2/19/21 Trial Transcript at 37:13-18 (McArn testimony).

25 110. McArn and Eric Radley testified that they went to the police station; when
26 they were at the police station, they received a return telephone call from Curtis, who said
27 that she was at the sheriff's station filing her own report; neither the police nor the sheriff
28 accepted the reports of either parties, saying that it was a civil matter. McArn

1 Declaration, ¶¶ 24-27 [Adversary Proceeding Docket No. 172]; Eric Radley Declaration
2 ¶¶ 55-58 [Adversary Proceeding Docket No. 171]; 2/18/21 Trial Transcript at 165:19-25
3 (Eric Radley Testimony); 2/19/21 Trial Transcript at 37:13-18, 40:7- 42:19 (McArn
4 Testimony).

5 111. Eric Radley testified that in October or November 2017, on behalf of
6 Plaintiff, and as Plaintiff's agent, he sent a text message to Curtis demanding that she
7 remove the Lien, but she refused to do so. Eric Radley Declaration, ¶ 60 [Adversary
8 Proceeding Docket No. 171]; Text Messages from Eric Radley, Trial Exhibit P-6 at 14.

9 112. Although Plaintiff made several demands on the Defendants to remove the
10 Disputed Lien from the Property, Defendants refused to comply with such demands.
11 JPTS at 5. Admitted/Adjudicated Fact No. 31 [Adversary Proceeding Docket No. 162];
12 *see also*, McArn Declaration, ¶¶ 22-27 [Adversary Proceeding Docket No. 172]; Eric
13 Radley Declaration ¶¶ 53, 55-58, 60 [Adversary Proceeding Docket No. 171]; 2/18/21
14 Trial Transcript at 165:19-25 (Eric Radley Testimony); 2/19/21 Trial Transcript at 40:7-
15 42:19 (McArn Testimony).

16 **I. Defendants' Intent in Filing the Lien**

17 113. Greta Curtis knew about Plaintiff's financial and legal problems with Acon
18 because Eric Radley had told her about them when she called him up in early 2017. Eric
19 Radley Declaration, ¶ 10 [Adversary Proceeding Docket No. 171]. Curtis gained Eric
20 Radley's confidence after they first met in fall or winter of 2016 at the Torrance
21 Courthouse and when she told him that she was an attorney and offered to help him with
22 his search of court record. *Id.*, ¶¶ 5-7. Curtis's representation to Eric Radley that she was
23 an attorney was misleading and deceptive in order to gain his confidence because while
24 it was true that she was an attorney in the past, she was no longer an attorney at the time
25 she told him she was an attorney, having been disbarred two years prior.¹³

26
27 ¹³ Although the Bankruptcy Court granted Defendants' motion to strike the complaint in
28 part with respect to the State Bar's decision for Curtis's disbarment, there is no dispute that
she had been disbarred before the events at issue in this case. Adversary Proceeding

114. Curtis gained access to Plaintiff's financial information when McArn gave Greta Curtis the Plaintiff's files, books, and records because Curtis told McArn that she (Curtis) could help with the Plaintiff's financial and legal issues and refinancing. McArn Declaration, ¶¶ 9-10 [Adversary Proceeding Docket No. 172]. Curtis gained McArn's confidence because Curtis said to McArn that she (Curtis) was a lawyer and that she could help her and Eric Radley with the Plaintiff's financial problems, management, and refinancing Plaintiff's debts with Acon. McArn Declaration, ¶¶ 8-10 [Adversary Proceeding Docket No. 172]. Curtis's representation to McArn that she was an attorney was deceptive and gained his confidence because while it was true that she was an attorney in the past, she was no longer an attorney at the time she told McArn she was an attorney, having been disbarred previously. It is unlikely that McArn would have given Curtis access to Plaintiff's financial information if she (McArn) had known that Curtis had been disbarred. Later, McArn found out that Curtis had been disciplined and disbarred when another lawyer told McArn about Curtis's state bar record. *Id.*, ¶14.

115. Greta Curtis testified that she researched the California law, legal treatises, and subject matter of mechanic's liens before filing the Lien. 2/19/21 Trial Transcript at 137:1- 138:11 (Curtis testimony).

116. Greta Curtis filed the Lien asserting in that filing: "In accordance with an **agreement** to provide labor and/or material, I did furnish the following labor and/or materials: **20** Prefabricated Wood Wall Panels @ a cost of **\$2,000** a piece... of a total value of **\$40,000**." Lien, Trial Exhibit P-1 at 2. (emphasis added).

117. Aside from the incidents surrounding the lumber, other incidents transpired between the parties leading up to the filing of the Lien, as discussed below:

118. As Eric Radley testified, in the summer of 2017, he discussed doing a real estate deal with Greta Curtis in Gardena, California (the Gardena Deal), but when Curtis could not come up with her half of the money for the deal, he told her that he would need

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1 to move forward with another investor, and in response, Curtis told him that she would
2 sue him for breach of contract. Eric Radley Declaration, ¶¶ 14-21 [Adversary Proceeding
3 Docket No. 171].

4 119. As McArn testified, during spring and summer of 2017, while Greta Curtis
5 was helping the Plaintiff with its legal and financial problems, she (Curtis) tried to get
6 McArn to have the Plaintiff employ Curtis and pay Curtis compensation for helping with
7 Plaintiff's affairs, but McArn refused. McArn Declaration, ¶ 12 [Adversary Proceeding
8 Docket No. 172].

9 120. McArn further testified that Curtis also asked McArn to put her (Curtis) on
10 Plaintiff's board. McArn Declaration, ¶ 13 [Adversary Proceeding Docket No. 172].

11 121. McArn testified that she had considered putting Curtis on the Plaintiff's
12 board before she (McArn) learned that Curtis was a disbarred attorney when another
13 attorney informed McArn about Curtis's state bar record and that Curtis had been
14 disciplined and disbarred, and consequently, McArn decided not to put Curtis on the
15 board. McArn Declaration, ¶ 14 [Adversary Proceeding Docket No. 172].

16 122. McArn also testified that Curtis had asked McArn to allow her (Curtis) to
17 move many of Curtis's personal property items in storage from the closing of Curtis's law
18 office into a small warehouse at Plaintiff's Property for storage. McArn Declaration, ¶¶
19 15-21 [Adversary Proceeding Docket No. 172]. McArn agreed to allow Curtis to move
20 her files from her law office into Plaintiff's Property, but refused to allow Curtis's many
21 other personal property items to be moved to Plaintiff's Property for storage because
22 Plaintiff was preparing to use the property for child care, and this made Curtis angry. *Id.*

23 123. McArn testified that it is her belief that the culmination of Eric Radley not
24 doing the Gardena Deal with Curtis, in addition to McArn refusing to put Curtis on
25 Plaintiff's board, refusing to give Curtis an employment contract, and refusing to allow
26 Curtis to store Curtis's personal property at Plaintiff's Property, ultimately made Curtis so
27 angry that Curtis filed the Lien as a way of trying to get something out of Plaintiff or
28 otherwise getting back at McArn and Eric Radley. McArn Declaration, ¶ 21 [Adversary

1 Proceeding Docket No. 172].

2 124. During the period from the Recording Date through January 17, 2018, or
3 ninety (90) days after the Recording Date, the Lien Enforcement Deadline, neither of the
4 Defendants commenced a court or other legal proceeding to enforce, maintain, or
5 continue the Lien. JPTS at 2, Admitted/Adjudicated Fact No. 5 [Adversary Proceeding
6 Docket No. 162]; *see also*, California Civil Code § 8460(a) (“The claimant shall
7 commence an action to enforce a lien within 90 days after recordation of the claim of lien.
8 If the claimant does not commence an action to enforce the lien within that time, the claim
9 of lien expires and is unenforceable.”). However, the 90-day period under state law for
10 enforcing Defendants’ purported mechanic’s lien was tolled by 11 U.S.C. § 108(c) as
11 filing of such action was an act to enforce a lien that is otherwise stayed by the automatic
12 stay in Plaintiff’s bankruptcy case under 11 U.S.C. § 362(a) and filing a notice of intent to
13 enforce the lien pursuant to 11 U.S.C. § 546(b) would not have been required to continue
14 or maintain perfection of the lien. *Philmont Management, Inc. v. In re 450 S. Western*
15 *Ave., LLC (In re 450 S. Western Ave., LLC)*, No. 21-60060, 2023 WL 2851378 (9th Cir.
16 Apr. 10, 2023), *following In re Hunters Run Limited Partnership*, 875 F.2d 1425 (9th Cir.
17 1989); *but see, In re Baldwin Builders*, 232 B.R. 406, 410-416 (9th Cir. BAP 1999).

18 125. After Plaintiff filed for bankruptcy, Curtis filed her state court complaint (the
19 State Court Complaint) on January 18, 2018, one day after the Lien Enforcement
20 Deadline, which commenced her state court lawsuit (the “State Court Lawsuit”) bearing
21 case number BC690787, with case title “*Greta Curtis vs. People Who Care Youth Center*
22 *Inc.*,” in an attempt to enforce the Lien against the Plaintiff. JPTS at 2-3,
23 Admitted/Adjudicated Fact No. 5 [Adversary Proceeding Docket No. 162].

24 126. Defendants were aware of Plaintiff’s bankruptcy case and retention of
25 bankruptcy counsel by at least January 26, 2018 when Plaintiff’s counsel sent Curtis a
26 letter informing her of the bankruptcy filing and that filing the State Court Lawsuit violated
27 the automatic stay and was void. JPTS at 3, Admitted/Adjudicated Facts Nos. 7-9
28 [Adversary Proceeding Docket No. 162].

1 127. While Plaintiff's bankruptcy case was pending, Curtis continued to litigate
2 the State Court Lawsuit by amending it to add as defendants McArn, Eric Radley,
3 Barrington Radley, and McArn's four children, even though they never received service of
4 any of these papers against them personally. McArn Declaration, ¶ 40 [Adversary
5 Proceeding Docket No. 172]; JPTS, Admitted/Adjudicated Facts Nos. 10-17 [Adversary
6 Proceeding Docket No. 162].

7 128. On November 5, 2018, the state court held a hearing on its order to show
8 cause, no appearances were made on the record, and the state court entered a minute
9 order dismissing the State Court Complaint. JPTS 4, Admitted/Adjudicated Fact No. 19
10 [Adversary Proceeding Docket No. 162].

11 129. On June 3, 2020, the Bankruptcy Court filed and entered its order
12 confirming Plaintiff's reorganization plan in the bankruptcy case which provided for
13 treatment of Defendants' secured claim based on its mechanic's lien in setting aside
14 funds in the claimed lien amount of \$40,000 in escrow pending determination of this
15 adversary proceeding to determine the validity of the lien. Docket No. 182. Plaintiff
16 served Defendants with notice of the reorganization plan and accompanying disclosure
17 statement. Bankruptcy Docket Nos. 152-154, filed on March 4, 2020. Defendants did not
18 file any objection to the plan.

19 CONCLUSIONS OF LAW¹⁴

20 I. Plaintiff's First Cause of Action for Slander of Title

21 A. Slander of Title - Elements

22 130. The elements of a claim of slander of title are: (1) a publication, (2) which is
23 without privilege or justification and thus with malice, express or implied, and (3) is false,
24 either knowingly so or made without regard to its truthfulness, and (4) causes direct and
25 immediate pecuniary loss. *Howard v. Shaniel*, 113 Cal.App.3d 256, 263-264 (1980);

26
27 ¹⁴ To the extent any proposed conclusions of law are findings of fact, the Bankruptcy
28 Court adopts them as such.

1 *accord, Manhattan Loft, LLC v. Mercury Liquors, Inc.*, 173 Cal.App.4th 1040, 1051
2 (2009).

3 **B. Slander of Title Legal Element Number 1: Publication**

4 131. The first element of publication for slander of title is met by the evidence of
5 Defendants' filing of the Lien in the Los Angeles County Recorder's Office, which is a
6 publication. JPTS at 2, Admitted/Adjudicated Fact No. 4 [Adversary Proceeding Docket
7 No. 162]; Trial Exhibits P-1 and D-1 (Lien); 2/18/21 Trial Transcript at 15:10-13 (no
8 dispute as to publication element number 1). The uncontroverted evidence shows that
9 Defendants "published" the Lien by recording it in the County Recorder's Office.

10 **C. Slander of Title Legal Element Number 2: Without Privilege or**
11 **Justification and Thus with Malice, Express or Implied**

12 132. Defendants contend as a defense that the filing of the Lien was privileged
13 "per Civil Code §47 and FRE 501." Defendants' Answer, Affirmative Defense No. 17
14 [Adversary Proceeding Docket No. 51]. On February 19, 2021, after Plaintiff rested its
15 case, Defendants stated that they were moving for a directed verdict based on this
16 defense of litigation privilege, but the Bankruptcy Court ruled that it would defer a ruling
17 on any such motion until the close of the evidence. 2/19/21 Trial Transcript at 95:2-
18 96:16. At the close of the evidence, the Bankruptcy Court stated that it would entertain
19 Defendants' motion orally, but they stated that they would do it in writing. *Id.* at 205:22-
20 211:21. However, Defendants did not file such a motion. Instead, Defendants in their
21 closing arguments argued that Plaintiff's slander of title claim should be denied on
22 grounds that their filing of the mechanic's lien was absolutely privileged under California
23 Civil Code § 47. 1/19/22 Trial Transcript at 35:11-37:2 and 41:23-44:6; 6/30/22 Trial
24 Transcript at 114:8-115:17. Defendants also argued that the slander of title claim against
25 them should be denied based on their litigation privilege in their objections to Plaintiff's
26 proposed findings of fact and conclusions of law. Defendants Greta Curtis and Ammec,
27 Inc.'[s] Objections to Plaintiff's Proposed Findings of Fact and Conclusions of Law in
28 Support of the First Cause of Action for Slander of Title in the Amended Complaint

1 Following Trial, filed on December 29, 2021, at 2-5, 31-47 [Adversary Complaint Docket
2 No. 270]; Defendants Greta Curtis and Ammec, Inc.’[s] Objections to Plaintiff’s Proposed
3 Findings of Fact and Conclusions of Law in Support of the First Cause of Action for
4 Slander of Title in the Amended Complaint Following Trial, filed on October 17, 2022, at
5 5-6, 43-46 [Adversary Complaint Docket No. 312].

6 133. Defendants’ intended motion for directed verdict would be now a motion or
7 renewed motion for judgment as a matter of law under Federal Rule of Civil Procedure
8 50, but such a motion by its terms is only applicable to jury trials. The applicable motion
9 would be a motion for judgment on partial findings under Federal Rule of Civil Procedure
10 52(c), made applicable to this adversary proceeding by Federal Rule of Bankruptcy
11 Procedure 7052, and Rule 52(c) provides: “If a party has been fully heard on an issue
12 during a nonjury trial and the court finds against the party on that issue, the court may
13 enter judgment against the party on a claim or defense that, under the controlling law,
14 can be maintained or defeated only with a favorable finding on that issue.”

15 134. The Bankruptcy Court finds and concludes that Defendants’ affirmative
16 defense has merit and that Defendants’ mechanic’s lien is absolutely privileged, even
17 though it may have false and not filed in good faith because the lumber was not supplied
18 by Defendants to Plaintiff as the evidence showed that the lumber was jointly purchased
19 and owned by Eric Radley and Greta Curtis and that Curtis expressly consented to
20 Radley taking five lumber walls from his 50 percent share of the lumber to Plaintiff..

21 135. In California, the right to file a mechanic’s lien is statutory, and the
22 applicable statute states: “A person that provides work authorized for a work
23 improvement, including [a material supplier] ... has a lien right under this chapter
24 [Chapter 4, Mechanics Lien].” California Civil Code § 8400(c).

25 136. Curtis asserted in her trial testimony that she is a material supplier of
26 lumber. 2/18/21 Trial Transcript at 71:4-6 (Curtis testimony). Assuming *arguendo* if
27 Curtis did “supply” the lumber to Plaintiff (and regardless of whether it was 5 or 20
28 prefabricated walls), Defendants’ filing of a mechanics lien was privileged, even if it is

1 shown to be invalid. Defendants argue that their publication of their mechanic's lien was
2 privileged under the litigation privilege of California Civil Code §47 and thus, not
3 actionable for the tort of slander of title. Defendants' Proposed Findings) at 3 [Adversary
4 Proceeding Docket No. 269]; Defendants Greta Curtis and Ammec, Inc's Objections to
5 Plaintiff's Proposed Findings of Fact and Conclusions of Law in Support of the First
6 Cause of Action for Slander of Title in the Amended Complaint Following Trial
7 (Defendants' Objections to Plaintiff's Proposed Findings) at 2-5 [Adversary Proceeding
8 Docket No. 270]. Defendants in support of their argument cite the case of *RGC*
9 *Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.*, 56 Cal.App.5th 413 (2020) for the
10 proposition that "the filing of a mechanic's lien constitutes protected activity, **even if the**
11 **lien was invalid or otherwise improper**" and the case of *Frank Pisano & Associates v.*
12 *Taggart*, 29 Cal.App.3d 1 (1972) for the proposition that "**it's a privileged act to file a**
13 **mechanic's lien, that privilege is not lost if it turns out that the mechanic's lien was**
14 **not something that was ultimately valid or appropriate to do so.**" Defendants'
15 Proposed Findings at 3 and 11 [Adversary Proceeding Docket No. 269] (emphasis in
16 original).

17 137. As the court in *RGS Gaslamp* stated, "In general, the privilege applies 'to
18 any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or
19 other participants authorized by law; (3) to achieve the objects of the litigation; and (4)
20 that [has] some connection or logical relation to the action.'" 56 Cal.App.5th at 435.
21 Similarly, in *Frank Pisano Associates*, the privilege attached in that case because the
22 filing of the lien was permitted by law by a contractor which had an agreement and the
23 lien had a reasonable relationship to an action to foreclose the lien for unpaid services
24 which had been agreed to. 29 Cal.App.3d at 25.

25 138. In Defendants' Objections to Proposed Findings of Fact and Conclusions of
26 Law, ¶ 63, filed on November 1, 2023 [Adversary Proceeding Docket No. 358], they
27 objected to Proposed Conclusions of Law, ¶¶ 165, 168, 169, 170, 171, 172, 173 on the
28 basis that the conclusions reached by the court do not comport with state law decisions,

1 such as *Albertson v. Raboff*, 46 Cal.2d 375 (1956) and *RGC Gaslamp, LLC v. Ehmcke*
2 *Sheet Metal Co., Inc.*, 56 Cal.App.5th 413 (2020) that Defendants are protected against
3 Plaintiff's slander of title claim by the Litigation Privilege of California Civil Code § 47 in
4 recording a mechanics lien. Defendants' Opposition to the Bankruptcy Court's Proposed
5 Findings of Fact and Conclusions of Law, Docket No. 358 at 49. In these cited proposed
6 conclusions of law, the court opined that Defendants' mechanics lien was not privileged
7 because factually, they did not supply Plaintiff with material in the lumber that they
8 contend was stolen by Plaintiff through its agent, Eric Radley, and that there was no work
9 authorized for a work improvement by them that was requested or agreed to by Plaintiff
10 as the owner of the property or by a direct contractor or other person in charge as
11 persons authorized by law to file a mechanics lien pursuant to California Civil Code §
12 8404.

13 139. Defendants' theory of defense to Plaintiff's slander of title claim in this
14 adversary proceeding is that they were "material suppliers" within the meaning of
15 California Civil Code § 8028 as to the lumber taken by Eric Radley and indirectly provided
16 to Plaintiff, and as "material suppliers" they had the right to file a mechanics lien pursuant
17 to California Civil Code § 8400 because while they had no contract with Plaintiff to supply
18 it with the lumber at issue in this matter, Plaintiff knowingly received the benefit of their
19 lumber which was used to improve its property, and therefore, Plaintiff should be
20 estopped from denying the benefit of their material, the lumber, which justifies their right
21 to file a mechanics lien against Plaintiff's improved property. Objections, ¶¶ 63-72,
22 Defendants' Opposition to Proposed Findings of Fact and Conclusions of Law [Adversary
23 Proceeding Docket No. 358] at 49-57. Defendants argue factually, Defendant Curtis
24 purchased the lumber and while she had considered making a donation of some lumber
25 to Plaintiff, in the meantime, Plaintiff's agent, Eric Radley, stole the lumber from her, and
26 Radley with Plaintiff's knowledge used the lumber to improve its property, which made
27 Defendants in their view "involuntary" material suppliers to Plaintiff. *Id.* Defendants
28 argue that their version of the facts is supported by the trial testimony of Defendant Curtis

1 and their trial exhibits and that these facts show that the filing of the mechanics lien was
2 authorized by law. *Id.*

3 140. Defendants argue that the recording of their mechanics lien was absolutely
4 privileged under the Litigation Privilege of California Civil Code § 47(b) in effect when
5 Defendants recorded their mechanics lien on October 19, 2017 provided as follows:

6 A privileged publication or broadcast is one made:

7 * * *

8 (b) In any (1) legislative proceeding, (2) judicial proceeding, (3) in any other
9 official proceeding authorized by law, or (4) in the initiation or course of any other
10 proceeding authorized by law and reviewable pursuant to Chapter 2 (commencing
11 with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, except as
12 follows:

13 * * *

14 141. The case law cited by Defendants in *Albertson v. Raboff*, 46 Cal.2d 375
15 (1956) and *RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.*, 56 Cal.App.5th 413
16 (2020) support Defendants' defense that the recording of their mechanics lien was
17 absolutely privileged. In *Albertson v. Raboff*, the California Supreme Court held that
18 defendant's filing of a lis pendens in anticipation of litigation was absolutely privileged
19 under the Litigation Privilege of California Civil Code § 47. 46 Cal.2d at 377-382. In so
20 holding, the California Supreme Court stated that the litigation privilege of California Civil
21 Code § 47 is to be broadly construed. *Id.* In *Albertson v. Raboff*, the California Supreme
22 Court went on to reverse the trial court not with respect to holding that the filing of a lis
23 pendens was privileged, but with respect to dismissing the plaintiff's claim for malicious
24 prosecution for the underlying action. *Id.* at 382-386.

25 142. Although *Albertson v. Raboff* involved a lis pendens, California case law
26 has recognized that the same rationale applies to other actions in anticipation of litigation,
27 such as a mechanics lien in anticipation of an enforcement action, as so held in *RGC*
28 *Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.*, 56 Cal.App.5th 413 (2020); *Frank*
Pisano & Associates v. Taggart, 29 Cal.App.3d 1 (1972).

143. Other California Supreme Court cases such as *Silberg v. Anderson*, 50
Cal.3d 205 (1990) and *Rubin v. Green*, 4 Cal.4th 1187 (1993) and *Action Apartment*

1 *Assn., Inc. v. City of Santa Monica*, 41 Cal.4th 1232 (2007) are consistent with its
2 decision and opinion in *Albertson v. Raboff* in broadly construing the California Litigation
3 Privilege.

4 144. In *Rubin v. Green*, the California Supreme Court commented on the history
5 of the Litigation Privilege as follows:

6 For well over a century, communications with “some relation” to judicial
7 proceedings have been absolutely immune from tort liability by the privilege
8 codified as section 47(b). 2 At least since then-Justice Traynor's opinion in
9 *Albertson v. Raboff* (1956) 46 Cal.2d 375, 295 P.2d 405, California courts have
10 given the privilege an expansive reach. Indeed, as we recently noted, “the only
exception to [the] application of section 47(2) [now § 47(b)] to tort suits has been
for malicious prosecution actions. [Citations].” (*Silberg v. Anderson, supra*, 50
Cal.3d at p. 216, 266 Cal.Rptr. 638, 786 P.2d 365 (*Silberg*).)

11 Undergirding the immunity conferred by section 47(b) is the broadly
12 applicable policy of assuring litigants “the utmost freedom of access to the courts
13 to secure and defend their rights....” (*Albertson v. Raboff, supra*, 46 Cal.2d at p.
14 380, 295 P.2d 405.) We have recently reemphasized the importance of virtually
unhindered access to the courts in several opinions. In *Silberg, supra*, 50 Cal.3d
205, 266 Cal.Rptr. 638, 786 P.2d 365, we said that the “principal purpose of
section 47([b]) is to afford litigants ... the utmost freedom of access to the courts
without fear of being harassed subsequently by derivative tort actions.” (*Id.* at p.
213, 266 Cal.Rptr. 638, 786 P.2d 365.) And, in *Oren Royal Oaks Venture v.*
16 *Greenberg, Bernhard, Weiss & Karma, Inc.* (1986) 42 Cal.3d 1157, 232 Cal.Rptr.
567, 728 P.2d 1202, we declined to permit the expansion of the abuse of process
17 tort to include the alleged improper filing of a lawsuit; to do so, we reasoned, would
remove existing barriers to the maintenance of malicious prosecution actions,
18 requirements that we said “play[] a crucial rule in protecting the right to ... judicial
relief....” (*Id.* at p. 1170, 232 Cal.Rptr. 567, 728 P.2d 1202.) In *Bear Stearns,*
19 *supra*, 50 Cal.3d 1118, 270 Cal.Rptr. 1, 791 P.2d 587, we called the requirement
of probable cause in malicious prosecution actions “essential to assure free
20 access to the courts....” (*Id.* at p. 1131, 270 Cal.Rptr. 1, 791 P.2d 587.) (See also
21 *Sheldon Appel Co. v. Albert & Oliker* (1989) 47 Cal.3d 863, 872, 254 Cal.Rptr.
336, 765 P.2d 498 (*Sheldon Appel*) [malicious prosecution tort “carefully
22 circumscribed so that litigants with potentially valid claims will not be deterred from
bringing their claims to court....”].)

24 In light of this extensive history, it is late in the day to contend that
25 communications with “some relation” to an anticipated lawsuit are not within the
privilege. Following *Albertson v. Raboff, supra*, 46 Cal.2d 375, 295 P.2d 405,
26 numerous decisions have applied the privilege to prelitigation communications,
leaving no doubt as to its applicability to the facts alleged in the amended
27 complaint. (See, e.g., *Block v. Sacramento Clinical Labs, Inc.* (1982) 131
Cal.App.3d 386, 393, 182 Cal.Rptr. 438 [privilege applies to communications with
28 “some relation to a proceeding that is actually contemplated in good faith and

1 under serious consideration by ... a possible party to the proceeding”]; *Rosenthal*
2 *v. Irell & Manella* (1982) 135 Cal.App.3d 121, 126, 185 Cal.Rptr. 92 [“potential
3 court actions”]; *Ascherman v. Natanson* (1972) 23 Cal.App.3d 861, 865, 100
4 Cal.Rptr. 656 [privilege extends to “preliminary conversations and interviews”
5 related to contemplated action]; *Pettitt v. Levy, supra*, 28 Cal.App.3d 484, 490, 104
6 Cal.Rptr. 650 [(1972)] [meeting of parties and counsel to “marshal their evidence
7 for presentation at the hearing”]; *Lerette v. Dean Witter Organization, Inc.* (1976)
8 60 Cal.App.3d 573, 577, 131 Cal.Rptr. 592 [privilege extends to “steps taken prior”
9 to judicial proceedings].) In short, we can imagine few communicative acts more
10 clearly within the scope of the privilege than those alleged in the amended
11 complaint, that is, meeting and discussing with Cedar Village residents park
12 conditions and the merits of the proposed failure-to-maintain lawsuit, and filing the
13 complaint and subsequent pleadings in the litigation.

4 Cal.4th at 1193-1195 (footnote omitted).

145. In *RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.*, the California
Court of Appeal affirmed the judgment of the trial court granting a subcontractor’s anti-
SLAPP motion to strike a project owner’s claims for quiet title, slander of title, declaratory
and injunctive relief for filing four successive mechanics liens, holding that the
subcontractor was immune from suit under the Litigation Privilege for filing the mechanics
liens, even if the mechanics liens were mistaken, stating as follows:

Codified at section 47, subdivision (b), the litigation privilege applies to
communications made as part of a “judicial proceeding.” Its principal purpose is to
afford litigants and witnesses “utmost freedom of access to the courts without fear
of being harassed subsequently by derivative tort actions.” (*Silberg v. Anderson*
(1990) 50 Cal.3d 205, 213, 266 Cal.Rptr. 638, 786 P.2d 365.) The privilege is
absolute, providing a defense to all torts except malicious prosecution and
applying “to all publications, irrespective of their maliciousness.” (*Id.* at pp. 212,
215–216, 266 Cal.Rptr. 638, 786 P.2d 365.) In general, the privilege applies “to
any communication (1) made in judicial or quasi-judicial proceedings; (2) by
litigants or other participants authorized by law; (3) to achieve the objects of the
litigation; and (4) that [has] some connection or logical relation to the action.” (*Id.*
at p. 212, 266 Cal.Rptr. 638, 786 P.2d 365.) “The privilege ‘is not limited to
statements made during a trial or other proceedings, but may extend to steps
taken prior thereto, or afterwards.’ ” (*Action Apartment, supra*, 41 Cal.4th at p.
1241, 63 Cal.Rptr.3d 398, 163 P.3d 89; *quoting Rusheen v. Cohen* (2006) 37
Cal.4th 1048, 1057, 39 Cal.Rptr.3d 516, 128 P.3d 713.)

RGC could not show that the litigation privilege was categorically
inapplicable. The privilege extends to all manner of tort actions except malicious
prosecution, and our court has previously applied the privilege to bar an owner’s
analogous slander-of-title claim following a subcontractor’s unsuccessful attempt
to foreclose on a mechanic’s lien. (*Alpha & Omega, supra*, 200 Cal.App.4th at p.

1 665, 132 Cal.Rptr.3d 781 [finding the filing of a notice of lis pendens protected by
2 the litigation privilege].) In reaching this result, we rejected the owner's argument
3 that the notice of lis pendens was not subject to the litigation privilege because the
4 underlying real property claim lacked evidentiary merit. (*Id.* at p. 667, 132
5 Cal.Rptr.3d 781.)

6 56 Cal.App.5th at 435. Other California authorities support the view that the filing of a
7 mechanics lien is entitled to an absolute privilege under California Civil Code § 47(b).
8 *Frank Pisano & Associates v. Taggart*, 29 Cal.App.3d 1 (1972), *cited with approval in*
9 *Olszewski v. Scripps Health*, 30 Cal.4th 798, 831 (2003), *cited in* 4 Miller and Starr,
10 *California Real Estate*, § 10:46 (online 4th edition June 2024 update) (“**Mechanics lien.**
11 Any document filed in relation to litigation, and any testimony given in relation to a
12 lawsuit, is privileged. Accordingly, the recordation of a mechanics lien claim is subject to
13 the absolute privilege.”).

14 146. In opposition to Defendant’s Litigation Privilege defense, Plaintiff argues
15 that the privilege was inapplicable to Defendants because factually, they are not material
16 suppliers or contractors who are authorized by law as claimants to file mechanics liens
17 and that their mechanics lien was misused as a prejudgment collection remedy because
18 Defendants’ claim is that Plaintiff’s agent, Eric Radley, stole their lumber, which may
19 constitute the tort of conversion rather than their supplying material to Plaintiff. Plaintiff’s
20 Reply to Defendants’ Proposed Findings of Fact and Conclusions of Law [Adversary
21 Proceeding Docket No. 274] at 12-18 (internal page citation at 9-15). Regarding
22 Defendants’ estoppel argument, Plaintiff argues that Defendants may not assert an
23 estoppel against it because the lumber was purchased and owned by Eric Radley and
24 Defendants’ valuation of the lien was grossly inflated. *Id.* at 11-12 (internal page citation
25 at 8-9).

26 147. There is legal support for Plaintiff’s opposition to Defendants’ assertion of
27 the Litigation Privilege. In *A.F. Brown Electrical Contractor, Inc. v. Rhino Electric Supply,*
28 *Inc.*, 137 Cal.App.4th 1118 (2006), the California Court of Appeal stated that the Litigation
Privilege applies to the recording of a mechanics lien, but the Litigation Privilege would
only protect it as prelitigation communications only if litigation was contemplated in good

1 faith and given serious consideration at the time defendant made the communication. *Id.*
2 at 1127-1128. In that case, the court denied the invocation of the privilege because while
3 the defendant was able to demonstrate good faith in a legally viable claim, it failed to
4 demonstrate that litigation was in serious consideration. *Id.* Arguably, in the case at bar,
5 Defendants cannot meet this standard because their mechanics lien was not in good faith
6 for a legally viable claim as Plaintiff argues, Defendants do not qualify as material
7 suppliers as the material allegedly supplied by them to Plaintiff was owned by Eric Radley
8 as a factual matter. Thus, *A.F. Brown Electrical Contractor, Inc. v. Rhino Electric Supply,*
9 *Inc.*, may be seen as supporting Plaintiff's opposition to Defendants' invocation of the
10 Litigation Privilege. *A.F. Brown Electrical Contractor, Inc. v. Rhino Electric Supply, Inc.*,
11 was severely criticized in *RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.*, 56
12 Cal.App.5th at 427-433 in which the court stated that *A.F. Brown* unnecessarily injects a
13 merits inquiry to the analysis of whether an action is protected under the Litigation
14 Privilege. As discussed herein, the Bankruptcy Court determines that this criticism of
15 *A.F. Brown* is correct.

16 148. In *Action Apartment Assn., Inc. v. City of Santa Monica*, the California
17 Supreme Court commented on the application of the Litigation Privilege to malicious
18 publications which are communicated in anticipation of litigation as follows:

19 To be protected by the litigation privilege, a communication must be "in
20 furtherance of the objects of the litigation." (*Silberg, supra*, 50 Cal.3d at p. 219,
21 266 Cal.Rptr. 638, 786 P.2d 365.) This is "part of the requirement that the
22 communication be connected with, or have some logical relation to, the action, i.e.,
23 that it not be extraneous to the action." (*Id.* at pp. 219-220, 266 Cal.Rptr. 638, 786
24 P.2d 365.) A prelitigation communication is privileged only when it relates to
25 litigation that is contemplated in good faith and under serious consideration.
26 (*Eisenberg v. Alameda Newspapers, Inc.* (1999) 74 Cal.App.4th 1359, 1381, 88
Cal.Rptr.2d 802 (*Eisenberg*); *Edwards [v. Centex Real Estate Corp.* (1997)],
supra, 53 Cal.App.4th at p. 36, 61 Cal.Rptr.2d 518; *Laffer v. Levinson* (1995) 34
Cal.App.4th 117, 124, 40 Cal.Rptr.2d 233 (*Laffer*); *Fuhrman v. California Satellite*
Systems (1986) 179 Cal.App.3d 408, 421, 231 Cal.Rptr. 113 (*Fuhrman*),
disapproved on other grounds in *Silberg, supra*, 50 Cal.3d at p. 219, 266 Cal.Rptr.
638, 786 P.2d 365; Rest.2d Torts, § 586, com. e, p. 248.)

27 The policy supporting the litigation privilege is furthered only if litigation is
28 seriously considered: "It is important to distinguish between the lack of a good faith
intention to bring a suit and publications which are made without a good faith belief

1 in their truth, i.e., malicious publications. The latter, when made in good faith
2 anticipation of litigation, are protected as part of the price paid for affording litigants
3 the utmost freedom of access to the courts. This policy consideration is not
4 advanced, however, when the person publishing an injurious falsehood is not
5 seriously considering litigation. In such a case, the publication has no 'connection
6 or logical relation' to an action and is not made 'to achieve the objects' of any
7 litigation [citation]. No public policy supports extending a privilege to persons who
8 attempt to profit from hollow threats of litigation." (*Fuhrman, supra*, 179 Cal.App.3d
9 at p. 422, fn. 5, 231 Cal.Rptr. 113; *accord, Edwards, supra*, 53 Cal.App.4th at p.
10 36, 61 Cal.Rptr.2d 518; *Laffer, supra*, 34 Cal.App.4th at p. 124, 40 Cal.Rptr.2d
11 233.)

12 41 Cal.4th at 1251 (footnote omitted). In other words, under this case precedent, there is
13 no merits inquiry whether a published communication was in good faith for a legally
14 viable claim in order for it to be protected by the Litigation Privilege. That is, the
15 communication, such as a mechanics lien, could be filed in bad faith as a malicious
16 publication, but still be protected under the Litigation Privilege.

17 149. Based on the foregoing, the Bankruptcy Court reconsidered its original
18 proposed findings of fact and conclusions of law filed on entered on September 26, 2023
19 [Adversary Proceeding Docket No. 344], and as set forth in its order filed and entered on
20 June 24, 2024 [Adversary Proceeding Docket No. 372] adopted the view that Defendants
21 have a valid defense of the Litigation Privilege for the recording of their mechanics lien for
22 which they have absolute immunity from liability for Plaintiff's first claim for relief for
23 slander of title. The Litigation Privilege is absolute as to all tort claims, except malicious
24 prosecution, and Plaintiff's slander of title is not an excepted tort claim from Defendants'
25 absolute immunity based on the Litigation Privilege. As stated by the California Supreme
26 Court in *Action Apartment*, "The policy supporting the litigation privilege is furthered only
27 if litigation is seriously considered: 'It is important to distinguish between the lack of a
28 good faith intention to bring a suit and publications which are made without a good faith
belief in their truth, i.e., malicious publications. The latter, when made in good faith
anticipation of litigation, are protected as part of the price paid for affording litigants the
utmost freedom of access to the courts. . . .'" 41 Cal.4th at 1251, *citing, Fuhrman v.*

1 *California Satellite Systems*, 179 Cal.App.3d at 422 n. 5, *Edwards v. Centex Real Estate*
2 *Corp.*, 53 Cal.App.4th at 36; and *Laffer v. Levinson*, 34 Cal.App.4th at 124.

3 . 150. The record in this case indicates that litigation was seriously considered by
4 Defendants in filing their mechanics lien as they followed up the recording of their
5 mechanics lien by filing their action in state court to enforce the lien, though it was filed in
6 violation of the automatic stay arising in Plaintiff's bankruptcy case, so it does not appear
7 that they lacked a good faith intention to pursue litigation based on the recorded
8 mechanics lien. However, as the Bankruptcy Court opined in the Proposed Findings of
9 Fact and Conclusions of Law [Adversary Proceeding Docket No. 344], ¶¶ 42-113 and
10 135-205, the Bankruptcy Court had determined that Defendants' mechanics lien was a
11 false publication made without a good faith belief in its truth, and it was a malicious
12 publication because preponderance of the evidence based on the trial testimony of Eric
13 Radley and Barrington Radley, which the court finds credible, has shown that the lumber
14 was jointly purchased by Eric Radley with Defendant Curtis from Habitat for Humanity,
15 that Eric Radley took five wood panels from his share of the jointly purchased lumber with
16 the knowledge and consent of Defendant Curtis, with the majority of the lumber being
17 moved to Defendant Curtis's premises, and that the stated value of \$40,000 of the small
18 portion of the lumber taken by Eric Radley on the mechanics lien was falsely overstated
19 as the total purchase price of the entire lumber jointly purchased, most of which went to
20 Defendant Curtis's premises, was only \$1,000. See, Trial Testimony of Eric Radley and
21 Barrington Radley, Trial Transcript, February 18, 2021 (Docket No. 215); Trial
22 Declarations of Eric Radley and Barrington Radley (Docket Nos. 170 and 171). See,
23 *Carden v. Getzoff*, 190 Cal.App.3d 907, 909-916 (1987).¹⁵ (The Proposed Findings of

24 ¹⁵ In this regard, the case is like the one in *Carden v. Getzoff* in which the
25 California Court of Appeal upheld the trial court's sustaining a demurrer to a
26 plaintiff's complaint for abuse of process, intentional and negligent infliction of
27 emotional distress against an expert witness for the opposing party who submitted
28 an expert report during plaintiff's marital dissolution case based on alleged perjury
by the witness. *Carden v. Getzoff*, 190 Cal.App.3d at 909-916. The appellate
court held that the alleged perjury by the defendant if true was outrageous,
nevertheless, defendant's claim of the Litigation Privilege must be upheld *Id.* at
915. The court stated: We in no way condone the alleged perjury. If the

1 Fact and Conclusions of Law were subject to *de novo* review by the United States District
2 Court and reconsidered as reflected in these revised proposed findings of fact and
3 conclusions of law to be submitted to the District Court for review.)

4 151. However, as the California Supreme Court recognized in *Action Apartment*,
5 a malicious publication when made in good faith anticipation of litigation is “protected as
6 part of the price paid for affording litigants the utmost freedom of access to the courts.”
7 *Id.* Thus, under the controlling California state case precedent, the Litigation Privilege
8 must be broadly construed to apply to the recordation of mechanics liens, and the
9 absolute immunity under the privilege applies to all derivative torts, except for the tort of
10 malicious prosecution, which is not a claim before the court. (The court does not accept
11 Plaintiff’s argument in its reply to Defendants’ proposed findings of fact and conclusions
12 of law [Adversary Proceeding Docket No. 274] at 17-18 (internal page citation at 14-15))
13 that slander of title is the equivalent of malicious prosecution.) Accordingly, this
14 conclusion of the Bankruptcy Court on reconsideration of its prior position means that
15 Plaintiff would not be entitled to damages on the slander of title claim, including the
16 attorneys’ fees and costs incurred to remove the lien. This conclusion rendered most of
17 the Bankruptcy Court’s original Proposed Findings of Fact and Conclusions of Law on the
18 slander of title claim superfluous.

18 **C. Slander of Title Legal Element Number 3: Falsity**

19 152. Because Defendants’ filing of the mechanic’s lien was absolutely privileged,
20 which bars Plaintiff’s first cause of action for slander of title, it is not necessary for the
21 court to address the element of falsity alleged by Plaintiff. As discussed above,

22 allegations in the complaint are true, respondent's conduct is indeed outrageous.
23 However, when there is a good faith intention to bring a suit, even malicious
24 publications “are protected as part of the price paid for affording litigants the
25 utmost freedom of access to the courts.” (*Fuhrman v. California Satellite Systems*,
26 *supra*, 179 Cal.App.3d at p. 422, fn. 5, 231 Cal.Rptr. 113; *Izzi v. Rellas* (1980) 104
27 Cal.App.3d 254, 264, 163 Cal.Rptr. 689.)” *Id.* Similarly, as the court has found,
28 Defendants’ mechanics lien was a malicious publication, but in filing the
mechanics lien, Defendants are entitled to protection under the Litigation Privilege
because when it was filed, it was made in good faith anticipation of litigation, and
as such is “protected as part of the price paid for affording litigants the utmost
freedom of access to the courts.” *Id.*; accord, *Action Apartment Assn., Inc. v. City*
of Santa Monica, 41 Cal.4th at 1251.

1 Defendants are entitled to judgment as a matter of law based on their defense of
2 absolute privilege to file their mechanic's lien, which presents only an issue of law.

3 **D. Slander of Title Element Number 4: Damages - Direct and Immediate**
4 **Pecuniary Loss**

5 153. Because Defendants' filing of the mechanic's lien was absolutely privileged,
6 which bars Plaintiff's first cause of action for slander of title, it is not necessary to address
7 the element of damages alleged by Plaintiff. As discussed above, Defendants are
8 entitled to judgment as a matter of law based on their defense of absolute privilege to file
9 their mechanic's lien, which presents only an issue of law.

10 **E. Recommendation on First Cause of Action for Slander of Title**

11 154. The Bankruptcy Court determines that Defendants' argument that their filing
12 of a mechanic's lien was absolutely privileged under California Civil Code § 47 has merit
13 and therefore, recommends that the District Court enter judgment on partial findings in
14 favor of Defendants on Plaintiff's first cause of action for slander of title because the
15 privileged filing of Defendants' mechanics lien cannot be the basis of a slander of title
16 claim pursuant to Federal Rule of Bankruptcy Procedure 7052, making Federal Rule of
17 Civil Procedure 52(c) applicable to this adversary proceeding, as Plaintiff has been fully
18 heard on the issue and the Bankruptcy Court finds against Plaintiff on the issue as a
19 matter of law.

20 **FURTHER PROCEEDINGS**

21 155. The Bankruptcy Court issues the above revised proposed findings of fact
22 and conclusions of law for *de novo* review by the United States District Court. Based on
23 the above revised proposed findings of fact and conclusions of law, the Bankruptcy Court
24 respectfully recommends that the District Court approve and adopt the above revised
25 proposed findings of fact and conclusions of law and enter a final judgment in favor of
26 Defendants on Plaintiff's First Cause of Action (Slander of Title).

27 156. Pursuant to Federal Rule of Bankruptcy Procedure 9033(a), "[i]n a
28 proceeding in which the bankruptcy court has issued proposed findings of fact and

1 conclusions of law, the clerk shall serve forthwith copies on all parties by mail and note
2 the date of mailing on the docket.” (The references to the “clerk” in Rule 9033 are to the
3 “bankruptcy clerk,” or the clerk of the Bankruptcy Court, pursuant to Federal Rule of
4 Bankruptcy Procedure 9001(3).)

5 157. Pursuant to Federal Rule of Bankruptcy Procedure 9033(b), within 14 days
6 after being served with a copy of the Bankruptcy Court’s proposed findings of fact and
7 conclusions of law, a party may serve and file with the clerk of the court written objections
8 which identify the specific findings or conclusions objected to and state the grounds for
9 each objection, and a party may respond to another party’s objections within 14 days
10 after being served with a copy thereof. Also, pursuant to Federal Rule of Bankruptcy
11 Procedure 9033(b), a party objecting to the Bankruptcy Judge’s proposed findings or
12 conclusions shall arrange promptly for the transcription of the record, or such portions of
13 it as all parties may agree upon or the bankruptcy judge deems sufficient, unless the
14 district judge otherwise directs.

15 158. Failure to file objections within the specified time may waive the right to
16 object to these proposed findings of fact and recommended conclusions of law. Federal
17 Rule of Bankruptcy Procedure 9033; *In re Delano Retail Partners, LLC*, No. 11-37711-B-
18 7, Adv. No. 13-2250-B, 2014 WL 4966476, slip op. at *13 (Bankr. E.D. Cal. Sept. 29,
19 2014), *citing*, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir.1998) and *Martinez v. Ylst*,
20 951 F.2d 1153 (9th Cir.1991).

21 159. Pursuant to Federal Rule of Bankruptcy Procedure 9033(c), the Bankruptcy
22 Judge may for cause extend the time for filing objections by any party not to exceed 21
23 days from the expiration of the time otherwise prescribed by Rule 9033. A request to
24 extend the time for filing objections must be made before the time for filing objections has
25 expired, except that a request made no more than 21 days after the expiration of time for
26 filing objections may be granted upon a showing of excusable neglect.

27 160. The Bankruptcy Judge will review the objections and responses thereto to
28 these proposed findings of fact and conclusions of law, and may amend the proposed

1 findings of fact and conclusions of law and submit them to the United States District
2 Court, or may submit the original proposed findings of fact and conclusions of law to the
3 United States District Court. In this regard, the Bankruptcy Court will apply the
4 procedures of Local Civil Rule L.R. 72-3 of the United States District Court for the Central
5 District of California applicable to reports and recommendations of the United States
6 Magistrate Judges to its proposed findings of fact and conclusions of law issued pursuant
7 to Federal Rule of Bankruptcy Procedure 9033.

8 161. Pursuant to Federal Rule of Bankruptcy Procedure 9033(d), the District
9 Judge shall make a *de novo* review upon the record or, after additional evidence, of any
10 portion of the Bankruptcy Judge's findings of fact or conclusions of law to which specific
11 written objections has been made in accordance with Rule 9033, and the District Judge
12 may accept, reject or modify the proposed findings of fact or conclusions of law, receive
13 further evidence or recommit the matter to the Bankruptcy Judge with instructions.

14 IT IS SO ORDERED.

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23 Date: September 29, 2025
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25 Robert Kwan
26 United States Bankruptcy Judge
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