

FILED & ENTERED

MAY 05 2020

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

**NOT FOR PUBLICATION**

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

In re:

ARKA SANGBARANI OROOJIAN,

Debtor.

Case No. 2:19-bk-22853-RK

Chapter 7

Adv. No. 2:20-ap-01020-RK

**ORDER ABSTAINING FROM DETERMINING  
PLAINTIFF'S TORT CLAIMS AGAINST  
DEFENDANT UNDERLYING HER DEBT  
DISCHARGEABILITY CLAIM IN THIS  
ADVERSARY PROCEEDING, GRANTING  
STAY RELIEF SUA SPONTE TO ALLOW  
STATE COURT ACTION TO LIQUIDATE  
TORT CLAIMS, STAYING ADVERSARY  
PROCEEDING PENDING OUTCOME OF  
STATE COURT ACTION AND SETTING  
FURTHER STATUS CONFERENCE**

RHIANNA YATES,

Plaintiff,

vs.

ARKA SANGBARANI OROOJIAN,

Defendant.

Status Conference:

Date: May 5, 2020

Time: 1:30 p.m.

Place: Courtroom 1675

Roybal Federal Building

255 East Temple Street

Los Angeles, California 90012

1 This adversary proceeding came on for hearing before the court for a status  
2 conference on May 5, 2020. Jacob J. Ventura, of the law firm of Kristensen LLP,  
3 appeared for Plaintiff Rhianna Yates. M. Jonathan Hayes, of the law firm of Resnik  
4 Hayes Moradi LLP, appeared for Defendant Arka Sangbarani Oroojian. In her  
5 adversary complaint, plaintiff alleged that defendant physically attacking her by  
6 punching her in the face continually after she told him to stop intimidating a hot dog  
7 vendor from whom that she had just bought hot dogs on a corner in downtown Los  
8 Angeles, California. Complaint, ECF 1, at 3-4. Plaintiff alleged that defendant's attack  
9 on her resulted in her suffering a concussion, finger injuries requiring surgery and  
10 incurring extensive medical expenses for treatment and rehabilitation, causing her to  
11 suffer pain, suffering, mental and emotional distress, embarrassment, humiliation and  
12 other damages. *Id.* Plaintiff alleged that she filed a civil complaint against defendant in  
13 the Superior Court of California for the County of Los Angeles, Case No.  
14 19STCV33320, asserting causes of action for assault, battery and intentional infliction of  
15 emotional distress and praying for damages exceeding \$5 million. *Id.* Defendant then  
16 commenced this bankruptcy case by filing a voluntary petition for relief under Chapter 7  
17 of the Bankruptcy Code, 11 U.S.C., and plaintiff's state court action asserting tort claims  
18 is stayed by the automatic stay in bankruptcy. *Id.* at 5. Plaintiff's adversary complaint  
19 only asserts the claim to determine dischargeability of debt based on her state court tort  
20 claims which are not asserted in the adversary complaint and which remain  
21 unliquidated.

22 Because the alleged debt from plaintiff's tort claims against defendant has not  
23 been determined and liquidated, the court had requested the parties to file briefing on  
24 whether the court should abstain from determining plaintiff's tort claims against  
25 defendant underlying her claim in this adversary proceeding to determine  
26 dischargeability of debt pursuant to 11 U.S.C. § 523(a)(6). After considering the briefing  
27 of the parties ordered by the court, the court provided and posted on the court's website  
28 on May 4, 2020 the following as its supplemental tentative ruling for the status

1 conference to its prior tentative ruling of May 1, 2020. The court will abstain from  
2 determining the underlying state law tort claims that plaintiff has against defendant  
3 pursuant to statutory permissive abstention under 28 U.S.C. § 1334(c)(1) and  
4 nonstatutory abstention under *Colorado River Water Conservation District v. United*  
5 *States*, 424 U.S. 800 (1976). The factors that the court has considered for permissive  
6 abstention are set forth in *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1167 (9th Cir.  
7 1990): 1) the effect or lack thereof on the efficient administration of the estate if a Court  
8 recommends abstention (favoring abstention for lack of effect on efficient administration  
9 of the estate), (2) the extent to which state law issues predominate over bankruptcy  
10 issues (favoring abstention since plaintiff's tort claims are governed by state law), (3)  
11 the difficulty or unsettled nature of the applicable law (neutral since the applicable law is  
12 not difficult or unsettled), (4) the presence of a related proceeding commenced in state  
13 court or other nonbankruptcy court (favoring abstention, there is pending state law court  
14 action stayed by this bankruptcy case), (5) the jurisdictional basis, if any, other than 28  
15 U.S.C. § 1334 (favoring abstention since the only basis for jurisdiction is the court's  
16 related to jurisdiction), (6) the degree of relatedness or remoteness of the proceeding to  
17 the main bankruptcy case (favoring abstention since the dispute in the adversary  
18 proceeding is remote to the main bankruptcy case), (7) the substance rather than form  
19 of an asserted "core" proceeding (favoring abstention because the underlying tort  
20 claims are noncore proceedings), (8) the feasibility of severing state law claims from  
21 core bankruptcy matters to allow judgments to be entered in state court with  
22 enforcement left to the bankruptcy court (favoring abstention, severance of state law  
23 claims to be tried in state court from the dischargeability claim can be accomplished),  
24 (9) the burden of [the bankruptcy court's] docket (favoring abstention, trying the tort  
25 claim would be burdensome on the bankruptcy court or district court's docket pursuant  
26 to 28 U.S.C. § 157(b)(5)), (10) the likelihood that the commencement of the proceeding  
27 in bankruptcy court involves forum shopping by one of the parties (this factor is neutral  
28 as the court makes no determination of forum shopping), (11) the existence of a right to

1 a jury trial (favoring abstention since the parties have the right to jury trial on the tort  
2 claims), and (12) the presence in the proceeding of nondebtor parties (not favoring  
3 abstention since the only parties to the dispute are before the court). Based on the  
4 overwhelming presence of factors favoring abstention, the court exercises permissive  
5 abstention as to plaintiff's tort claims underlying her nondischargeability action.

6 The court also exercises nonstatutory *Colorado River* abstention as the factors  
7 for such abstention favor abstention because: (1) state law provides the rule of decision  
8 on the merits; (2) the state court proceeding is adequate to protect the parties' rights;  
9 and (3) the state court obtained and exercised jurisdiction first as the state court action  
10 was ready to go to trial before defendant filed his bankruptcy case, staying that action.  
11 *In re Bellucci*, 119 B.R. 763, 775-776 (Bankr. E.D. Cal. 1990) (citations omitted).

12 "Under the Colorado River doctrine, a federal trial court has discretion in 'exceptional  
13 circumstances' and despite the general obligation to exercise jurisdiction, to stay or  
14 dismiss an action for reasonable of wise judicial administration solely because of  
15 parallel litigation in state court." *Id.* at 775 (citations omitted). Thus, the court abstains  
16 from hearing plaintiff's state law tort claims and stays this action until the state court  
17 determines those claims, and afterwards, the court will then determine plaintiff's debt  
18 dischargeability claims in this adversary proceeding.

19 In so abstaining, the court will also grant stay relief *sua sponte* to allow the state  
20 court action to proceed to judgment, but not permitting enforcement of any judgment  
21 against the debtor or property of the estate unless further stay relief is obtained by order  
22 of the court or by operation of statute. *In re Belluci*, 119 B.R. at 778-779; accord, *In re*  
23 *Calkins*, BAP No. AZ-17-1284-LBTa, 2019 WL 1594016 (9th Cir. BAP 2019), slip op. at  
24 \*4.

25 Accordingly, based on the foregoing, the court orders as follows:

- 26 1. The court abstains from determining plaintiff's tort claims underlying her claim  
27 to determine dischargeability of debt.
- 28 2. The court grants relief from the automatic stay under 11 U.S.C. § 362(d)(1) so

1 that plaintiff's tort claims against defendant in the pending state court action in  
2 the Superior Court of California for the County of Los Angeles, Case No.  
3 19STCV33320, may be litigated to judgment. However, no enforcement of  
4 any judgment against defendant, the debtor in this bankruptcy case, or  
5 against property of the bankruptcy estate in this bankruptcy case unless the  
6 automatic stay is modified or terminated either pursuant to further order of this  
7 court or by operation of law.

- 8 3. This adversary proceeding is stayed pending the entry of a judgment  
9 determining plaintiff's tort claims in the state court action. The court will  
10 determine plaintiff's claim to determine dischargeability of debt after the state  
11 court enters a judgment on the underlying tort claims of plaintiff against  
12 defendant. The parties are ordered to file a notice of judgment with this court  
13 within 30 days of entry of any judgment on plaintiff's tort claims by the state  
14 court.
- 15 4. The court sets a further status conference in this adversary proceeding before  
16 the court on December 1, 2020 at 1:30 p.m. in Courtroom 1675, Roybal  
17 Federal Building, 255 East Temple Street, Los Angeles, California 90012.  
18 The court waives the requirement of a written status report for this status  
19 conference, and the parties may report orally on the status of the state court  
20 action.

21 IT IS SO ORDERED.

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24  
25 Date: May 5, 2020



Robert Kwan  
United States Bankruptcy Judge