

FILED & ENTERED

AUG 26 2025

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

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

In re:

Sherrie Nicole Lockhart-Johnson,

Case No.: 2:20-bk-10969-BB

Chapter: 7

Adversary No.: 2:20-ap-01073-BB

Debtor(s),

**FINDINGS OF FACT AND CONCLUSIONS
OF LAW AFTER TRIAL ON REMAND**

Sharlene Willard

Plaintiff(s),

Date: August 7, 2025

Time: 10:00 AM

Vs. Location: Courtroom 1539

Sherrie Nicole Lockhart-Johnson

Defendant(s).

The Court hereby makes the following findings of fact and conclusions of law in support of the judgment entered in the above adversary proceeding concurrently herewith:

I

FINDINGS OF FACT

A. Procedural History

1. Defendant Sherrie Nicole Lockhart-Johnson (the “Debtor”) commenced the above chapter 7 case by filing a voluntary petition on January 29, 2020 (the “Petition Date”).

2. Plaintiff Sharlene Willard (“Plaintiff”) commenced the above adversary proceeding (the “Action”) against the Debtor on March 26, 2020.

3. On December 28, 2021, Plaintiff filed an amended complaint (the “Amended Complaint”), adding the Debtor’s nondebtor spouse Steve Todd Johnson (“Johnson”) as a defendant.

4. No attorney has ever appeared in the Action on behalf of any of the parties.

5. The Amended Complaint seeks to have the remaining balance that Johnson owes Plaintiff under a judgment entered pursuant to a settlement agreement¹ in Los Angeles Superior Court case no. 17IWSC00998 (the “State Court Judgment”) excepted from the “community property discharge” of Bankruptcy Code section 524(a)(3) on the ground that amounts due under the State Court Judgment (the “Claim”) would have been excepted from the discharge under Bankruptcy Code sections 523(a)(2)(A) and 523(a)(6) if Johnson had filed his own bankruptcy case on the Petition Date.²

6. Plaintiff did not plead (or obtain a judgment for) fraud or any intentional tort in the state court action. The small claims court complaint that Plaintiff filed to commence case no. 17IWSC00998 (the “Small Claims Action”), which was admitted at trial as Johnson’s Exhibit A, explains the basis of the Claim as follows: “ON 10-28-2016, I ENTERED INTO AN AGREEMENT WITH PRO-TEAM CONTRACTING COMPANY TO DO REPAIRS ON MY HOME, FOR \$10,000. I PAID \$9,000. THE DEFENDANTS ABANDONED THE PROJECT.”

¹ The settlement agreement required the defendants to clean up Plaintiff’s property and to pay \$10,000 in monthly installments of \$400. Plaintiff’s property was cleaned up and the first installment of \$400 was paid. No payments were made after that and Plaintiff filed a Declaration of Default, Exhibit 7. Although that declaration acknowledges receipt of a payment of \$400, for some reason, it declares under penalty of perjury that the remaining balance due, without adding any interest, was \$9,900. See Exhibit 7, at item no. 6.

² The Amended Complaint also contained a claim under Bankruptcy Code section 523(a)(4), but, in its March 15, 2023, Order [Docket No. 127] at par. 7, the Court found that any such claim was not well-founded and dismissed it.

1 7. Plaintiff's claim under section 523(a)(2)(A) is based on her contention that
2 Johnson falsely represented to her that he personally held a contractor's license and that, but
3 for this false representation, she never would have agreed to work with him and the company
4 he claimed to work for/with – Pro-Team Contractors ("Pro Team").

5 8. Plaintiff's claim under section 523(a)(6) is based on her contention that, despite
6 continual requests and receipt of payments, Johnson did not complete the work that he had
7 agreed to complete on her home (the "Property") and instead willfully and maliciously caused
8 damage to her home by (a) cutting through a water pipe, causing water to stream down from
9 the upstairs bathroom into Plaintiff's attic and down the downstairs walls, (b) performing work
10 in a substandard manner, (c) smearing large black splotches of some substance across the
11 front of her home and (d) making an enormous mess by piling debris in the bedrooms and
12 throwing trash out of the windows.

13 9. Plaintiff has never claimed that the Debtor herself made any misrepresentations
14 to Plaintiff or engaged in any wrongful conduct.

15 10. By order entered April 12, 2023 [Docket No. 149], the Court entered an order
16 granting in part the Debtor's motion for summary judgment (the "Motion"). That order provided,
17 in pertinent part, as follows:

18 1. Subject to the provisions of paragraphs 2 and 3 below, the Motion is
19 GRANTED to the extent that it seeks a determination that any claims
20 asserted by Plaintiff are dischargeable as against the debtor Sherrie Nicole
21 Lockhart-Johnson;

22 2. To the extent that the Motion seeks a determination that any claims asserted
23 by Plaintiff would be dischargeable in a hypothetical bankruptcy case filed by
or with regard to defendant Steve Johnson, the motion is DENIED.

24 11. To streamline the issues in the Action for the purposes of discovery and trial,
25 and in the interests of efficiency and economy, the Court entered its March 15, 2023 "Order
26 Granting in Part and Denying in Part Plaintiff's Motion to Compel Responses to Discovery
27 Requests and Bifurcating Issues for Discovery and Trial" [Docket No. 127] (the "Bifurcation
28 Order"), which provided, in pertinent part (emphasis in original):

1 14. Subject to certain modifications set forth in its March 12, 2024 “Order Approving
2 Pretrial Stipulation, with Modifications” [Docket No. 198] (the “Pretrial Order”), the Court
3 approved and accepted the contentions and admissions made by the parties in their February
4 21, 2024, Pretrial Stipulation [Docket No. 189] (the “Stipulation”).

5 15. Pursuant to Local Bankruptcy Rule 7016-1(b)(2)(J), the final paragraph of the
6 Stipulation provides as follows: “The foregoing admissions have been made by the parties, and
7 the parties have specified the foregoing issues of fact and law remaining to be litigated.
8 Therefore, this order supersedes the pleadings and governs the course of trial of this cause,
9 unless modified to prevent manifest injustice.”

10 16. Based on the representations made by the parties at the Pretrial Conference,
11 the Court included in the Pretrial Order [Docket No. 198] the names of the witnesses that each
12 of the parties intended to call at trial on May 23, 2024.

13 17. The following is the list of witnesses that Plaintiff advised the Court she intended
14 to call at the May 23, 2024, trial:

- 15 (i) Tamika Johnson (who was present at the property to let workmen in) (can
16 testify as to what occurred at the property during construction);
17 (ii) Marcus Curry (plaintiff’s son, also present at the property every day) (can
18 testify as to what occurred at the property during construction);
19 (iii) Joe Powell (can testify as to Johnson’s relationship with his company, how
20 his company did business, nature and extent of contract with plaintiff);
21 (iv) Steve Johnson (defendant); and
22 (v) Sharlene Willard (plaintiff).

23 18. The following is the list of witnesses that Johnson advised the Court he intended
24 to call at the May 23, 2024, trial:

- 25 (i) Kewone Littlefield (Johnson’s nephew) (can testify as to work performed at
26 house);
27 (ii) Travellyan “Tracy” Johnson (Johnson’s brother) (can testify as to work
28 performed at house, particularly sand-blasting and/or water blasting);
 (iii) Derrick McCoy (can testify as to removal of trash from property);

(iv) Steve Johnson (defendant); and

(v) Sharlene Willard (plaintiff).

19. Trial of the Nondischargeability Issue commenced at approximately 10:13 a.m. on May 23, 2024, in Courtroom 1539 of the above-entitled Court and concluded at approximately 10:40 a.m. on that date. The Debtor and Johnson appeared for trial on May 23, 2024. Joe Powell (the husband of Johnson's aunt) also appeared. Plaintiff did not appear, either in person or through counsel. None of the other witnesses identified in the Pretrial Order appeared either.

20. For the reasons set forth in this Court's May 23, 2024 "Findings of Fact and Conclusions of Law in Support of Judgment in Favor of Defendants" [Docket No. 221], this Court entered judgment in favor of Johnson on May 23, 2024 (the "2024 Judgment") [Docket No. 220].

21. On June 12, 2024, Plaintiff filed a motion to vacate the 2024 Judgment and for a new trial [Docket No. 223]. By order entered June 14, 2025 [Docket No. 224], this Court denied Plaintiff's motion for a new trial.

22. Plaintiff appealed the denial of her motion for a new trial, and the United States District Court for the Central District of California, in case no. 2:24-cv-05656-SVW, by order entered April 1, 2025 [Docket No. 236 in the Action], found that the bankruptcy court had abused its discretion by denying Plaintiff's motion for a new trial and therefore vacated the 2024 Judgment and remanded the Action to the bankruptcy court for further proceedings.³

23. The bankruptcy court therefore issued its June 25, 2025 "Order Setting Trial Date and Establishing Procedures for the Conduct of Court Trial," [Docket No. 239], resetting this matter for trial on August 7, 2025.

24. A total of four people appeared for trial on August 7, 2025: Plaintiff; Johnson; the Debtor; and Marcus Curry (Plaintiff's son). Although Plaintiff filed a proof of service on July 28, 2025 [Docket No. 244], evidencing service on Joe Powell ("Powell") of a subpoena to appear

³ The District Court's April 1, 2024, order notes, however, its finding "that the bankruptcy court did not clearly err in making any of its factual findings nor were any of its conclusions of law incorrect."

and testify at trial, Powell did not appear for trial on August 7, 2025. Johnson represented to the Court on the morning of trial that Powell had passed away approximately 8 months earlier.⁴

B. Exhibits Admitted at Trial

The Court explained to the parties at the inception of the trial that there were three possible ways for them to cause the Court to admit an exhibit into evidence at trial: (1) a party could authenticate and lay a foundation for the admission of the exhibit through the testimony of a witness; (2) the exhibit could be one of the types of documents of which a Court may take judicial notice; or (3) the parties could agree that a given exhibit was what it purported to be and should be admitted into evidence. Nevertheless, as neither party was represented by counsel, neither party presented at trial an appropriate foundation for the admission of any of his or her exhibits.

Therefore, after both parties had rested, the Court went through the parties' exhibit books, exhibit by exhibit, to ascertain whether there were any objections to the admission of the documents into evidence and/or whether the Court could take judicial notice of any of the documents, and admitted and excluded the following exhibits:

Plaintiff's Exhibits⁵

EXHIBIT	ADMITTED	EXCLUDED
1	X	
2	X	
3	X	

⁴ When Powell appeared for his deposition in the Action on September 29, 2023, he testified that his date of birth was February 1, 1932, and that he was then 91 years old. In light of Powell's advanced age and the familial relationship between Johnson and Powell, the Court accepted Johnson's offer of proof as to the explanation for Powell's nonappearance. Plaintiff did not object. Moreover, as the Court explained on the record at the time of trial, based on its review of the transcript of Powell's deposition [Exhibit 7 to "Plaintiff's Pretrial Order," Docket No. 180], the Court had serious concerns as to Powell's mental faculties as of the time of his deposition and therefore did not consider it likely that his testimony would have been useful or reliable even if he had been able to testify at trial. The Court therefore found that Powell was "unavailable" as a witness pursuant to Fed. R. Evid. 804(a)(4), which provides that a witness is unavailable if he "cannot be present to testify at the trial or hearing because of death or a then-existing infirmity, physical illness or mental illness," and opted to use his deposition testimony and an earlier declaration, Exhibit 14, in lieu of live testimony at trial pursuant to Fed. R. Evid. 804(b)(1).

⁵ The parties presented hard copies of their exhibits in notebooks on the day of trial. Plaintiff's exhibits were numbered. Defendant's exhibits were lettered. As the exhibits were not voluminous, the Court will scan and docket any exhibits that do not already appear on the docket in the Action so that they will be available for future reference.

EXHIBIT	ADMITTED	EXCLUDED
4		X
5	X	
6	X	
7	X	
8	X	
9	X	
10	X	
11		X
12	X	
13		X
14	X	
15		X ⁶
16		X
17		X
18		X ⁷
19	X	
20	X	
21	X	
22		X
23	X	
24		X ⁸

⁶ Plaintiff's Exhibits 15 and 16 were excerpts from transcripts of hearings in small claims court that were previously attached as Exhibits 2 and 3 to Plaintiff's Proposed Pretrial Order [Docket No. 180]. Although the Court excluded the excerpts, it admitted the full transcripts into the record, as reflected in the chart below.

⁷ Plaintiff's Exhibit 18 was an excerpt from the transcript of Powell's deposition and was previously attached as Exhibit 7 to Plaintiff's Proposed Pretrial Order [Docket No. 180]. Although the Court excluded the excerpts, it admitted the full transcript into the record, as reflected in the chart below.

⁸ Plaintiff's Exhibit 24 was a two-page excerpt from Johnson's August 15, 202, motion to compel responses to requests for discovery [Docket No. 165]. Although the Court excluded this excerpt, it admitted the full motion into the record, as reflected in the chart below.

EXHIBIT	ADMITTED	EXCLUDED
25		X ⁹
26		X ¹⁰
27		X ¹¹
28	X	
29		X
30		X
31		X
32		X
2 to Docket 180	X	
3 to Docket 180	X	
7 to Docket 180	X	
Docket 165	X	
Docket 79	X	
Docket 215	X	
1 to Docket 180	X	

Defendant's Exhibits

EXHIBIT	ADMITTED	EXCLUDED
A	X	
B	X	
C	X	

⁹ Plaintiff's Exhibit 25 was an excerpt from Johnson's May 31, 2022, motion to dismiss the Amended Complaint [Docket No. 79]. Although the Court excluded this excerpt, it admitted the full motion into the record, as reflected in the chart below.

¹⁰ Plaintiff's Exhibit 26 was an excerpt from Johnson's April 12, 2024, "Motion to Answer Not to Impose Sanctions" [Docket No. 215]. Although the Court excluded this excerpt, it admitted the full document into the record, as reflected in the chart below.

¹¹ Plaintiff's Exhibit 27 was an excerpt from a lengthy text exchange between the Plaintiff and Johnson that originally appeared in the record as Exhibit 1 to Docket 180. Although the Court excluded this excerpt, it admitted the full text exchange into the record, as reflected in the chart below.

EXHIBIT	ADMITTED	EXCLUDED
D		X
E	X	
F		X
G		X
H	X	
I	X	
J	X	

C. Credibility of the Witnesses¹²

25. The Court does not find the Plaintiff Sharlene Willard to be a credible witness. Throughout the course of the Action, the Plaintiff has never been able to articulate a consistent narrative as to the sequence of events or the nature of the damage allegedly inflicted on the Property by Johnson. At trial, the testimony that Plaintiff provided was not consistent with the exhibits that she herself submitted or the positions that she had previously advanced in the Action, and her testimony was not corroborated by that of any other witness. The following is a nonexclusive list of illustrative examples:

- a. Plaintiff offered no receipts or documents of any kind to support her contention that she paid \$9,000 (or any amount) to Johnson or Pro Team other than a document generated by Pro Team itself [Plaintiff's Exhibit 2], which showed she had paid a total of \$7,000;
- b. Plaintiff repeatedly testified that there was no contract or agreement of any kind between herself, on the one hand, and Johnson and/or Pro Team, on the other, yet, in her small claims court complaint against Johnson, Powell, and both of them as Pro-Team Contractor [Defendant's Exhibit 1], her response to the question, "Why does the Defendant owe the Plaintiff money?" given under

¹² As the parties were questioning the witnesses without the assistance of counsel and often digressed from questioning a witness to offer their own version of events, early in the trial, the Court had both parties sworn in, as well as the third-party witness, Marcus Curry, so that all statements that any of them made during the course of trial would be under oath.

1 penalty of perjury was, "ON 10-28-2016, I ENTERED INTO AN AGREEMENT
2 WITH PRO-TEAM CONTRACTING COMPANY TO DO REPAIRS ON MY
3 HOME, FOR \$10,000. I PAID \$9,000. THE DEFENDANTS ABANDONED THE
4 PROJECT";

5 c. In a declaration dated April 5, 2024 [Docket No. 211], with regard to the cost of
6 repairing the damage that she claimed Johnson had caused to the Property, she
7 offered the following testimony under penalty of perjury:

8 i. (c) The damage to the outside, bathroom, and closet was repaired around
9 August/September 2019, approximately \$23,000. James Miller, Riverside,
10 CA, hired the contractors to complete the repairs. He was provided cash
11 to pay the majority of the cost to the contractors.

12 ii. (d) The last known address for James Miller is Riverside, CA. I no longer
13 have James Miller's phone number or exact address, and I have never
14 had an email address.

15 At trial, Plaintiff testified that she believed the repairs cost approximately \$5,500
16 and that James Miller paid the cost of the repairs himself out of his own pocket.
17 She testified further that she has no documents of any kind that would evidence
18 these payments or reflect the work done and that she no longer has any contact
19 information for James Miller; and

20 d. Although the Plaintiff was adamant that Johnson caused damage to the Property
21 willfully and maliciously, the only evidence that she could offer to support this
22 contention was that, after she and Johnson had a conversation about the fact
23 that she could not or would not pay for the work that had been performed,
24 Johnson seemed upset, and she heard banging upstairs before he left.

25 26. Conversely, the Court found defendant Johnson to be a credible witness. His
26 narrative as to the sequence of events that transpired between the Plaintiff and himself has not
27 changed during the course of the Action and, unlike that of the Plaintiff, adequately explains
28 and is consistent with the exhibits that both parties submitted. His testimony and explanations
were logical and plausible and did not rely on unsupported speculation.

1 27. The Court also found Marcus Curry to be a credible witness; however, based on
2 his testimony at trial, it appeared that he had personal knowledge of very few of the facts and
3 circumstances relevant to the matters at issue in the Action.

4 28. The testimony available from the final witness, Joe Powell, was problematic to
5 say the least. As set forth in note 4, supra, the Court found that Powell was unavailable within
6 the meaning of Fed.R.Evid. 804(a)(4), and accepted the transcript of his September, 2023,
7 deposition [Exhibit 7 to Docket No. 180] (the “Deposition”) and his June 12, 2023 declaration
8 [Exhibit 14] in lieu of live testimony at trial. Not only did Powell’s testimony at the Deposition
9 contain internal inconsistencies and reflect, in this Court’s opinion, failing mental capacity, but
10 he has also testified under penalty of perjury both (a) that Johnson used his business name
11 and contractor’s license number without his knowledge or permission in contracting with the
12 Plaintiff (see Powell’s January 12, 2018 “Request for Court Order and Answer,” Exhibit 5) and
13 (b) that Johnson worked with Pro Team for many years on and off and was authorized to
14 secure contracts on behalf of Pro Team with the Plaintiff and that Powell only tried to
15 disassociate himself from the dispute between Plaintiff and Johnson because he did not want
16 his contractor’s license to be suspended and Plaintiff had promised that she would not try to
17 get the contractor’s license board involved if the parties settled and paid her (see “Declaration
18 of Joe Powell,” Exhibit 14). As between these two conflicting versions of Powell’s testimony,
19 the Court finds the latter to be the more credible given both the corroborating evidence that
20 appears in the parties’ settlement agreement, Exhibit 6 (“Plaintiff has agreed to drop the claim
21 against defendants in front of Contractor’s state licensing board”) and Powell’s testimony at the
22 Deposition that Johnson had worked with him, securing contracts and performing work under
23 his supervision, and that he reviewed the contract between Johnson and Plaintiff and
24 authorized him to write the contract. See Powell Deposition Transcript, Exhibit 7 to Docket No.
25 180, pp. 15-16.

26 **D. The First Contract Between the Parties**

27 29. On or about October 28, 2016, Johnson met Plaintiff at the Property. Plaintiff
28 wanted some work done on the Property and had contacted someone named Mike Willis to

1 see if he was available to do the work. Willis told Plaintiff that he was not available but gave
2 Johnson Plaintiff's contact information and suggested that Johnson contact her, which he did.

3 30. While at the Property, Johnson gave Plaintiff a business card for Pro Team that
4 had both his name and Powell's name on it as well as the contractor's license number for Pro
5 Team [#717172].

6 31. In visiting the Property and meeting with Plaintiff, and, later, in entering into
7 contracts with Plaintiff, Johnson did so on behalf of Pro Team with the knowledge and consent
8 of Powell on behalf of Powell's sole proprietorship, Pro Team.

9 32. The Parties agreed in the Stipulation that: (a) when Johnson and Plaintiff met in
10 person to discuss the prospect of entering into an agreement for work to be performed at the
11 Property, Johnson gave Plaintiff the contractor's license number for Pro-Team Contractors; (b)
12 Plaintiff used her mobile phone to check the license number with California's Contractor's
13 State License Board and saw that it was, in fact, legitimate; (c) the license number that
14 Johnson provided Plaintiff was that of Pro Team Contractors, which was valid at that time.

15 33. The Court takes judicial notice of the fact that, when one enters a license number
16 into the California's Contractor's State License Board's website to check the status of a
17 license,¹³ the search result reflects on the top line under Business Information the name of the
18 licensed party. Although the record in the Action does not include a printout of what Plaintiff
19 saw when she searched under contractor's license number 717172 in October of 2016, a
20 similar search today yields the following result:

Business Information

PRO - TEAM CONTRACTOR

905 GLENWAY DR 2

INGLEWOOD, CA 90302

Business Phone Number:(323) 497-8999

Entity Sole Ownership

Issue Date 01/09/1996

Expire Date 01/31/2020

¹³ <https://www2.cslb.ca.gov/onlineservices/checklicenseII/checklicense.aspx>

1 34. Throughout the course of the Action, and again when specifically questioned on
2 this issue during the course of the trial, Plaintiff alleged that the fraud or false representation on
3 which she was relying in asserting that the Claim was nondischargeable under Bankruptcy
4 Code section 523(a)(2)(A) was that Johnson had represented to her that *he personally*, as
5 distinguished from Pro Team, held a contractor's license. The Court finds that Johnson never
6 represented to Plaintiff that he personally held a contractor's license.

7 35. Moreover, and in the alternative, the Court finds further that, even if Johnson had
8 represented that the license number that he provided (or the one that was reflected on the
9 business card that he gave Plaintiff) was his own license number (rather than that of Pro
10 Team), Plaintiff did not justifiably rely, and could not have justifiably relied, on any such
11 representation as, before hiring Pro Team, she looked up the license number to confirm that it
12 was valid. In the course of so doing, she would have seen that Pro Team contractors was the
13 license holder and not Johnson himself.

14 36. Following their first meeting at the Property, Johnson sent Plaintiff a proposal for
15 the work she wanted performed, which appears in the record as both the first page of Plaintiff's
16 Exhibit 1 and the second page of Johnson's Exhibit C (the "First Contract"). The work to be
17 performed pursuant to the First Contract was in fact fully performed to Plaintiff's satisfaction,
18 and Plaintiff paid the amount due under that contract (\$7,000) in two installments of \$2,500
19 and one of \$2,000. (See Plaintiff's Exhibit 2 and page 2 of Johnson's Exhibit E.)

20 **D. The Second Contract Between the Parties**

21 37. After the work described on the First Contract was performed and payment was
22 made, in or about late November of 2016, Plaintiff asked Johnson to perform additional work at
23 the Property, and, in response, Johnson sent Plaintiff a second proposal/contract – the second
24 page of Plaintiff's Exhibit 1 (the "Second Contract").

25 38. Although the Second Contract, like the first, reflects a date of October 30, 2016,
26 under Plaintiff's name and address, this is because Johnson used the First Contract as a
27 template from which to prepare the Second Contract and did not change this information. The
28 work to be performed under the Second Contract is accurately described on the second page
of Exhibit 1, and the Second Contract is an entirely separate contract from the First Contract.

1 39. The business address for Pro Team reflected at the bottom of both the First
2 Contract and the Second Contract – “17496 Laciencia Blvd Los Angeles California 90043” – is
3 a nonexistent address and contains numerous typographical errors. Powell had
4 letterhead/stationery made up with this address and these errors for Pro Team’s use. Johnson
5 did not intentionally use a false address to defraud or mislead the Plaintiff.

6 40. Although Johnson had required Plaintiff to pay a deposit of \$2,500 before
7 beginning work under the First Contract, he did not require her to pay a deposit before
8 beginning work under the Second Contract because she had made all payments when due
9 under the First Contract and he, therefore, trusted her to pay amounts due under the Second
10 Contract.

11 41. Plaintiff proposed, and Johnson accepted, a “very unique payment plan” for the
12 Second Contract that included, in part, payment in the form of a car (the “Car”) in lieu of a
13 portion of the cash payment. (See Johnson’s Exhibit I.)

14 42. Work began under the Second Contract in late November 2016 or early
15 December 2016 and was substantially completed (approximately 70 to 80 percent) when
16 Plaintiff advised Johnson that she was no longer willing to give him the Car and that she would
17 be unable to pay the amounts due under the Second Contract. Plaintiff asked him not to
18 perform one or more of the line items reflected in the Second Contract and to reduce the
19 amount due under the Second Contract by the amount attributable to that/those line items.
20 Johnson responded that the price Plaintiff had been given for the work to be performed under
21 the Second Contract was a package deal and included discounted prices due to the total
22 amount of the work to be performed and that, if one or more line items were removed, the price
23 would not be reduced by the amount of that/those line items as the cost of the remaining work
24 would increase. (See Johnson’s Exhibit I, email dated December 23, 2016, at 10:17 a.m.)
25 Johnson testified that this conversation occurred on December 22, 2016; Plaintiff testified that
26 it occurred on December 23, 2016. The Court finds that this conversation occurred on
27 December 22, 2016, and that the confirming email -- the top portion of Exhibit I -- was sent the
28 following morning.

1 43. When the parties were unable to come to an agreement concerning modifications
2 to the Second Contract, and it became apparent to Johnson that Plaintiff either could not or
3 would not pay amounts due under that contract, Johnson stopped performing work under the
4 Second Contract and left the Property.

5 44. Plaintiff never paid Johnson or Pro Team anything for work performed under the
6 Second Contract.

7 45. When Johnson left the Property on December 22, 2016, a substantial amount of
8 construction debris was left at the premises. That debris was removed at Pro Team's expense
9 in or about the first quarter of 2017 pursuant to the parties' settlement agreement in the Small
10 Claims Action [Exhibit 6].

11 46. Johnson had been performing work in the upstairs bathroom on the Property
12 before he left. There was an exposed water pipe in that bathroom near the floor (the "Pipe")
13 that Marcus Curry testified had been in that location in that condition long before Johnson
14 began work at the Property.

15 47. Plaintiff claims that, while Johnson was upstairs, he intentionally broke the Pipe,
16 causing water to stream out of the Pipe. She did not see him break the Pipe, as she was
17 downstairs at the time, but claims she heard banging noises while he was packing up to leave
18 the Property.

19 48. Two days later, on December 24, 2016, Marcus Curry came to the Property to
20 spend Christmas Eve with his mother. He observed water leaking from upstairs and went up
21 to investigate. He found that the Pipe was broken or had burst. (There was pipe on both
22 sides, with a leak in the middle, not an open pipe.) Plaintiff testified that she was able to find
23 someone to come to the Property and repair the Pipe at a cost that she estimated at
24 approximately \$350. (She offered no documentation to evidence this expense.) Marcus Curry
25 was the one who discovered the leak on December 24, 2016. Plaintiff had not noticed the
26 problem prior to that time.

27 49. The evidence is insufficient to establish that Johnson broke the Pipe, either
28 accidentally or intentionally. Moreover, a leak of the magnitude that Marcus Curry described

1 would have been discovered before December 24, 2016, if Johnson had broken the Pipe when
2 he left on December 22, 2016.

3 50. At no time prior to commencement of the Action did Plaintiff complain about the
4 quality of the work performed on her Property under either the First Contract or the Second
5 Contract.

6 51. Johnson did not cause harm to the Property willfully or maliciously.

7 52. Johnson did not breach the Second Contract. Plaintiff breached the Second
8 Contract by anticipatory repudiation, relieving Johnson and Pro Team of any duty to further
9 perform thereunder.

10 53. Plaintiff did not establish that she suffered any damage as a proximate result of
11 any conduct by Johnson. In fact, the Court finds that she was benefitted by Johnson's
12 conduct, as Plaintiff paid nothing under the Second Contract for the work he performed at the
13 Property.

14 II

15 CONCLUSIONS OF LAW

16 1. Powell was "unavailable" as a witness at the August 7, 2025 trial within the
17 meaning of Fed.R.Evid. 804(a)(4).

18 2. Pursuant to Bankruptcy Code section 524(a)(3), a discharge in bankruptcy
19 operates as an injunction against the commencement or continuation of an action, the
20 employment of process, or an act to collect or recover from, or offset against, community
21 property of the debtor and the debtor's spouse that is acquired after commencement of the
22 Case on account of any allowable community claim, except a claim that is excepted from
23 discharge under section 523 or that would be so excepted, determined in accordance with the
24 provisions of sections 523(d)(and 523(d), in a case concerning the debtor's spouse.

25 3. Bankruptcy Code section 523(a)(2)(A) excepts from a discharge in bankruptcy
26 debts for money, property, services, or an extension or renewal or refinancing of credit, to the
27 extent obtained by false pretenses, a false representation or actual fraud (other than a
28 statement concerning debtor's or an insider's financial condition).

1 4. In order to have a claim excepted from discharge under Bankruptcy Code section
2 523(a)(2)(A), plaintiff must establish the following elements:

- 3 a. that the debtor made a representation;
4 b. that the debtor knew at the time that the representation was false;
5 c. that the debtor made the misrepresentation with the intention/purpose of
6 deceiving the creditor;
7 d. that the creditor justifiably relied on the representation; and
8 e. that the creditor sustained damage as proximate result of her reliance on the
9 misrepresentation. Apte v. Japra (In re Apte), 96 F.3d 1322 (9th Cir. 1996).

10 5. Plaintiff bears the burden of proof, and the foregoing elements must be proven by
11 a preponderance of the evidence. In re Demarest, 124 F.3d 211 (9th Cir. 1997) citing Grogan
12 v. Garner, 498 U.S. 279, 291 (1991).

13 6. The Supreme Court has held that reliance by creditor need only be justifiable, it
14 need not be reasonable. A person is justified in relying upon misrepresentation even if he
15 might have ascertained falsity of information through investigation, but one cannot close his
16 eyes and blindly rely. See Apte v. Japra (In re Apte), 96 F.3d 1322 (9th Cir. 1996).

17 7. Plaintiff has failed to establish any of the elements necessary to state a claim
18 under Bankruptcy Code section 523(a)(2)(A).

19 8. Bankruptcy Code section 523(a)(6) excepts from a discharge in bankruptcy debts
20 for “willful and malicious injury by the debtor to another entity or to the property of another
21 entity.”

22 9. The “willful and malicious” conduct must result in a deliberate or intentional injury.
23 It is not sufficient that the defendant have performed a deliberate or intentional act that led to
24 injury. Kawaauhau v. Geiger, 523 U.S. 57 (1998) (overruling Ninth Circuit that a wrongful act,
25 done intentionally, that necessarily produces harm was sufficient without specific intent to
26 injure). Debts arising from recklessly or negligently inflicted injuries do not fall within section
27 523(a)(6). Id.

28 10. The debtor must desire to cause the consequences or believe that the
consequences are substantially certain to result from his conduct. Baldwin v. Kilpatrick (In re

1 Baldwin), 245 B.R. 131 (Bankr. 9th Cir. 2000). Intentional torts fall within section 523(a)(6),
2 which generally require that the actor intend the consequences of the act, not merely the act
3 itself; however, when an actor knows or is substantially certain of the consequences that will
4 result from his act and continues despite this knowledge, the law will treat the actor the same
5 as if he had meant to produce the result.

6 11. Section 523(a)(6)'s willful injury requirement is met only when the debtor has a
7 subjective motive to inflict injury or when the debtor believes that injury is substantially certain
8 to result from his own conduct. Petralia v. Jercich (In re Jercich), 238 F.3d 1202 (9th Cir.), cert.
9 denied, 533 U.S. 930 (2001). It is not sufficient that, under an objective standard, there is a
10 substantial certainty that the debtor's conduct will cause harm. Carrillo v. Su (In re Su), 290
11 F.3d 1140 (9th Cir. May 20, 2002) (affirming BAP's decision at 259 B.R. 909).

12 12. As with any exception to discharge under section 523(a), Plaintiff bears the
13 burden of proof.

14 13. Plaintiff has failed to establish any of the elements necessary to state a claim
15 under Bankruptcy Code section 523(a)(6).

16 14. Having failed to carry her burden of proof on either of the remaining theories
17 asserted in the Amended Complaint, the Court finds that judgment should and will be entered
18 in favor of Johnson and against the Plaintiff concurrently herewith.

19 15. The Court noted in the Bifurcation Order at paragraph 8 that adjudication of the
20 Nondischargeability Issue may moot the remaining issues in this Action. The Court finds that
21 this is the case. Any issues that may remain as between the parties are not yet ripe for
22 decision and may or may not be within this Court's jurisdiction.

23 16. Having failed to prevail under any subpart of section 523, the provisions of
24 Bankruptcy Code section 524(a)(3) apply to the Claim, and, pursuant to section 524(a)(3), the
25 discharge that Debtor obtained in the above chapter 7 case operates as an injunction against
26 the commencement or continuation of an action, the employment of process, or any act to
27 collect or recover from, or offset against, property of the Debtor or community property of the
28 Debtor and Johnson on account of the Claim.

1 17. As Plaintiff attempted to have her claims against Johnson excepted from the
2 discharge in the Debtor's bankruptcy case pursuant to Bankruptcy Code section 524(a)(3) (the
3 "community property discharge"), and the Court has devoted its resources to the adjudication
4 of this claim for more than 5 years, Plaintiff is judicially estopped to deny that her Claim against
5 Johnson is a community claim subject to section 524(a)(3).

6 18. Notwithstanding the foregoing, the Claim remains enforceable (solely) as against
7 any separate property that Johnson may have, and not as against any community property in
8 the possession of either Johnson and/or the Debtor.

9 # # #
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 Date: August 26, 2025



Sheri Bluebond
United States Bankruptcy Judge