19-7263

ORIGINAL

Case No_____

In the Supreme Court of the United States

PRAVEEN K. KHURANA, PRO SE

Petitioner,

V.

STATE OF IDAHO, DEPARTMENT OF HEALTH AND WELFARE,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT FOR THE STATE OF IDAHO

PETITION FOR A WRIT OF CERTIORARI

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QUESTION(S) PRESENTED

1) Whether pre-petition probate charges/claims by a governmental unit against a real property of a debtor are treated the same as property tax charges, rendering the post-petition real estate transfer voidable under 11 USC 362?

2) Which is the overriding act or law where there is square and entrenched conflict between the Unified Fraudulent Transfers Act's statute of limitations and the asset recovery provisions of long-term Medicaid recovery by a governmental unit and 11USC Chapter 7?

3) Whether supremacy clause overrides Medicaid recovery in cases of conflict between 11 USC Chapter 7 and Medicaid Asset Recovery of a state governmental unit?

4) Whether the United States Supreme Court in its supervisory capacity is persuaded to hear cases where there is clearly a due process and civil rights violation by a state court of last resort.? (Notably: Respondent and/or Idaho State Court had already changed ownership records in State of Idaho, County of Nez Perce records in the state well before the conclusion of court proceedings, regarding: Set Aside Transfer of Asset Proceedings Hearings in State of Idaho Court (see evidence in appendix A.))

5) Whether a state governmental unit is exempt from filing claims against a probated estate for Medicaid Recovery conducted under applicable non-bankruptcy state law.

6) The False Claims Act establishes two distinct statute-of-limitations periods. Under 31 U.S.C. § 3731(b)(1), a False Claims Act civil action "may not be brought more than 6 years after the date" of the alleged violation. Under 31 U.S.C. § 3731(b)(2), a False Claims Act civil action "may not be brought more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United

States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date" of the alleged violation. Whether this applies to the Medicaid recovery by a state governmental unit?

7) Whether the state court of last resort in Idaho has clearly decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.

8) § 523(a)(2)(A) "is broad enough to incorporate a fraudulent conveyance" and does "not require a misrepresentation from a debtor to a creditor." *Id.* at 5. "In such cases, the fraudulent conduct is not in dishonesty inducing a creditor to extend a debt. It is in the acts of concealment and hindrance." *Id.* Question Presented – If the act of application for long term Medicare by the seller of Petitioner's home could not be possibly known to the petitioner when he bought his home, by paying fair market value to the seller, pre-petition to his Chapter 7 case. Is this considered a "fraudulent transfer" of the discharged asset? And is it still subject to recovery by the Idaho State, Department of Health and Welfare for Medicare as affirmed by the Idaho Supreme Court?

There is a square and entrenched conflict between individual fraudulent transfers between the Idaho Supreme court and the 9th circuit.

9) Taggart v. Lorenzen, the issue was the legal standard for holding a creditor in civil contempt when the creditor violates the bankruptcy discharge order. Question presented – Ids the respondent Liable for acts committed prior to?

PARTIES TO THE PROCEEDING

The Petitioner is an Individual over the age of majority and a Lawful resident of the United states. Residing in town of Lewiston, County of Nez Perce in the State of Idaho.

The Respondent is the State of Idaho, Department of Health and Welfare acting as the executor of the Estate of Delores Adamson. – a Long term Medicare recipient and seller of the home to the Petitioner.

LIST OF PROCEEDINGS AND RELATED CASES.

1) Supreme Court of Idaho; Appeal # 18-46030

2) Supreme Court of Idaho; Appeal # 46651 – 2019

3) Supreme Court of Idaho; Appeal # 46652 – 2019

4) District Court of Idaho, 2ND Judicial District, Nez Perce County, CV-17-1230

5) District Court of Idaho, 2ND Judicial District, Nez Perce County, CV35-18-1708

6) District Court of Idaho, 2ND Judicial District, Nez Perce County, CV35-18-2087

7) US Bankruptcy Court – 13-20058-TLM

8) US Bankruptcy Court – 16-20205

9) Bankruptcy Appellate Panel – 18-1196

10) Bankruptcy Appellate Panel – 19-1004

11) Bankruptcy Appellate Panel – 19- 1093

12) US District Court for District of Idaho – CV-18-553

13) US District Court for District of Idaho – CV-19-117

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13.) § 108

14.) 11 U.S.C. § 362(h)

15.) 28 U.S.C. §§ 158(d)

16.) 291. 11 U.S.C. § 362(h):

17.) Taggart v. Lorenzen, US Supreme court

18.) *Thompson v. General Motors Acceptance Corp.*,

19.) RW Meridian LLC, 553 B.R. 807 (Bankr. S.D. Cal. 2016) ...UNITED STATES BANKRUPTCY APPELLATE PANELOF THE NINTH CIRCUIT In re:)BAP No. SC-16-1227-JuFY) RW MERIDIAN LLC,) Bk. No. 16-00629-MM7

20.) BAP No.NC-17-1186-BSTa) CRESTA TECHNOLOGY CORPORATION,)Bk. No.16-50808-MEH)Debtor.)Adv. No. 17-05030-MEH....

21.) Relying on Barnhill v. Johnson, 503 U.S. 393 (1992)

22.) Barnhill, 503 U.S. at 394-95 and Mora v. Vasquez (In re Mora), 199 F.3d 1024, 1027 (9th Cir. 1999)

23.) *St. Mary Hospital*, 89 B.R. 503 (Bankr. E.D. Pa. 1988)

24.) *Bradley*, 989 F.2d 802 (5th Cir. 1993)

25.) *Curry*, 148 B.R. 966 (S.D. Fla. 1992)

26.) *See In re Syzmecki*, 87 B.R. 14 (Bankr. W.D. Pa. 1988); *In re Sudler*, 71 B.R. 780 (Bankr. E.D. Pa. 1987).

27.) In *Kwasnik v. State Bar of California*, 2 BNA Bankr. L. Rptr. 653 (Cal. Sup.Ct. 1990)

28.) *Executive Benefits Insurance Agency v. Arkison (In re Bellingham Insurance Agency, Inc.)*

29.) Storm v. Storm, 328 F.3d 941, 943-44 (7th Cir.2003);

30.) Dragan v. Miller, 679 F.2d 712, 713-15 (7th Cir.1982)

31.) Marshall v. Marshall, --- U.S. ----, ----, 126 S.Ct. 1735, 1748, 164 L.Ed.2d 480 (2006).

32.) In re Marshall, 392 F.3d 1118, 1131-32 (9th Cir.2004), rev'd on other grounds under the name Marshall v. Marshall, supra,

33.) Tonti v. Petropoulous, 656 F.2d 212, 215-16 (6th Cir.1981), holding it applicable to such cases, with Goerg v. Parungao, 844 F.2d 1562, 1565 (11th Cir.1988)

34.) In *Field v. Mans*, 516 U.S. 59, 69 (1995)

35.) Hall v. Hall, 584 U. S

36.) California Artificial Stone Paving Co. v. Molitor, 113 U. S. 609, 618.

37.) *Tibble v. Farmers Grain Express Inc. (In re Michigan Biodiesel, LLC)*, 510 B.R. 792 (Bankr. W.D. Mich. 2014),

38.) *Miller v. Matco Electric Corp. (In re NewStarcom Holdings)*, Civ. No. 17-309 (D. Del. Sept. 6, 2019).

39.) *Cashco Inc.*, No. 18-11968-j7 (Bankr. D.N.M. March 26, 2019).

40.) *Javney v. GMAG, L.L.C.*, No. 17-11526, 2019 U.S. App. LEXIS 759 (Jan. 9, 2019), the Fifth Circuit.

PETITION FOR A WRIT OF CERTIORARI

Petitioner Praveen K. Khurana, respectfully petitions for a writ of certiorari to The Court of Appeals for the State of Idaho and the Supreme Court for the State of Idaho.

OPINIONS BELOW

Order Denying Petition for Review from State Court of Last resort – Supreme Court of Idaho shown as Appendix A1

JURISDICTION

The Order of the Supreme Court for the State of Idaho – Order Denying Motion to Reconsider, Order Denying Petition For Review was entered on August 15, 2019. United States Supreme Court has jurisdiction pursuant to 28 U.S.C. § 1254(1) and 28 USC § 178(i)(3).

STATEMENT OF THE CASE

Factual Background:

Petitioner lived till recently at his primary home(home) and has continuously lived there since 2006. This home has been his Primary and only Residence of the petitioner and is located at 732 Preston Avenue, Lewiston, ID, 83501. Petitioner has owned his home in fee simple since 2006. Debtor always believed that he is and has been the legal and equitable owner of his home. Petitioner's home was transferred to him by quitclaim deed by the seller Delores Adamson (seller) in 2006 in exchange for a consideration of $69,000.00 paid to seller by the proceeds from two Loans. The home was tax assessed at $78,000 at the time of sale. It needed substantial repairs. The fair market value was agreed upon by both the seller and petitioner using the tax assessment and the condition of the property.

Unknown to the Petitioner, seller later and subsequent to the sale of her house filed an application for Medicaid benefits for herself. Petitioner still believing he was and is the rightful owner of the home has paid all the bills related to his home since 2006, these include but are not limited to mortgages, property taxes and utilities, Petitioner has made capital improvements to the home since acquiring it, petitioner was listed since 2006 as the owner in the tax records at the Nez Perce County Assessor and Treasurer's Tax Records up until 2018. This was pre-petition asset. (see appendix H) in petitioner's Chapter 7 petition filed in March 2013 in the United States Bankruptcy for the District of Idaho. This voluntary petition of Chapter 7 was assigned case number of 13-22058-TLM. It was discharged on September 20th, 2013 (Exhibit J) Petitioner did declare his home as an asset in the Bankruptcy schedules and claimed it as exempt up to its full values under the Homestead Exemption for Idaho in maximum limit of $100,000.00 (see appendix K.)

i) Procedural History:

The State of Idaho sought relief to set aside transfer of assets on June 22nd, 2017, in the Nez Perce County for the State of Idaho. See appendix F. The transfer deed(s) from seller to petitioner were subsequently voided by the Nez Perce County Court. See appendix C. Further, the Nez Perce County Court awarded Respondent ownership for relief not plead or sought as shown in Appendix F and in appendix D. Further, in the US Bankruptcy Court denied Respondent the Lift of Stay shown in appendix I. Petitioner's home asset was also listed as an asset in the US Bankruptcy case 13-20058-TLM. (appendix K.) The Trustee abandoned any interest or claim on the home asset. No finding of a fraudulent transfer mas ever made by the US Bankruptcy Court in the Petitioner's case number 13-20058-TLM.

REASONS FOR GRANTING THE PETITION

This case presents a challenge to the jurisdiction of every court in the nation to interpret and apply the law. A critical question, and split in the Statute/Law, persists concerning the interplay between Bankruptcy Law and Medicaid estate recovery by a State Governmental Unit.

The district court (Judgement in Case # 17-CV-1230 and supreme court of Idaho (Appeal # 19-46030) are wrong (for 3 reasons set forth below:)

i) Idaho Rule of Civil procedure Misinterpreted 60(b):

The clear error of the Nez Perce County Court in applying Idaho Rule of Civil Procedure 60(b) is a valid mistake when ordering relief to the respondents for inadvertence and/or mistakes. Respondent admitted to their mistakes in their pleadings years after filing their initial complaint. Note: The Supreme Court of Idaho affirmed the lower court's decision when they declined to grant a petition for review of the lower court order granting relief on deficient and inaccurate complaint of the Respondent. (see appendix E)

ii) Clear violation of due process clause (4th and 14th amendment) by Supreme court for the State of Idaho (Respondent); State court for Nez Perce County court and the Idaho supreme court:

The US Supreme court in its Supervisory capacity is requested to hear cases where there is clearly a due process and civil rights violation by a state court of last resort.? (Notably: Respondent and/or Idaho State court had already changed ownership records in State/County

records in the state well before the conclusion of court proceedings regarding Set Aside Transfer of Asset Proceedings hearings in State Court were ever held (see evidence in appendix A.))

iii) The statute of Limitations has expired:

Under Uniform Fraudulent Transfers Act for recovery of a claim. - Recovery has been conducted 11 years after the Transfer of the asset and 5 years after its was discharged as an exempt asset in a Chapter 7 Petition. (see Appendix J.) This violated the statute of limitations clause. The United States Supreme court is requested to grant the writ for this reason.

Other reasons the Denial of Petition for review by the Supreme Court of Idaho is wrong and why Writ of Certiorari should be granted.

Question on Automatic Stay:

The Idaho Supreme court and the circuits are split on what constitutes an automatic stay.

The Seventh Circuit addressed the issue in *Thompson v. General Motors Acceptance Corp.*, holding that "the act of passively holding onto an asset constitutes 'exercising control' over it, and such action violates section 362(a)(3) of the Bankruptcy Code. The court also pointed to the Supreme Court's interpretation in *Whiting Pools* of the turnover power of Section 542(a), requiring creditors holding property of the debtor to return it to the trustee. With the holding, the Seventh Circuit reversed an opinion that had followed "accepted procedure" in the district, allowing a secured creditor "to retain possession of a seized asset until the creditor subjectively determine[d]" that the debtor had sufficient assets to protect the secured creditor's interests.[5] Instead, the Seventh Circuit required the creditors to first return the asset and then to seek adequate protection from the court. Most circuits agree with *Thompson* in this regard.

A couple circuits are not as debtor friendly as the Seventh Circuit, however. Despite the plain text analysis of sections 362(a)(3) and 542(a) in *Thompson*, the Tenth Circuit disagreed in *In re Cowen* using the same method of analysis. There, the Tenth Circuit held that passively holding an asset does not violate the automatic stay. The court accused the majority *Thompson* rule as "driven more by 'practical considerations' and 'policy considerations' than a faithful adherence to the text." The court argued that the act requirement of section 362(a)(3) necessarily entails an affirmative action, stating that "[s]tay means stay, not go."[7] The Court in *Cowen* also contested the majority rule's use of the turnover power of Section 542(a) in this context, stating that the Bankruptcy Code does not contain a "textual link" between section 542 and section 362. There is controversy and a conflict. The Writ of Certiorari should be granted so that the United States Supreme Court can answer this question.

Question of Pre-Petition and Discharged Assets.

Petitioner held assets that were discharged in his bankruptcy, see appendix J and K. There is a broad reach of the automatic stay espoused in 40235 Washington Street Corp. v. W.C. Lusardi (In re Lusardi), also in re RW Meridian LLC, 553 B.R. 807 (Bankr. S.D. Cal. 2016) ...United States Bankruptcy Appellate Panel of the Ninth Circuit, In re:) BAP No. SC-16-1227-JuFY) RW Meridian LLC,) Bk. No. 16-00629-MM7 held that Debtor/petitioner held valuable rights in the property at the time of its bankruptcy filing, including title, possession, and contingent redemption rights. Accordingly, the bankruptcy court found that the property was property of Debtor's estate under § 541. As a result, the court concluded that the County's post-petition completion of the tax sale violated § 362(a)(3), (4), and (6) and thus was void.

Further, in BAP No.NC-17-1186-BSTa)Cresta Technology Corporation,)Bk. No.16-50808-MEH)Debtor.)Adv. No. 17-05030-MEH...."Relying on Barnhill v. Johnson, 503 U.S. 393

(1992),the bankruptcy court determined that the payment was transferred when the check was honored by the debtor's bank..." supported by Barnhill, 503 U.S. at 394-95 and Mora v. Vasquez (In re Mora), 199 F.3d 1024, 1027 (9th Cir. 1999)

Again, to be noted here is that the home of the Petitioner was already discharged on September 20, 2013. *In re St. Mary Hospital*, 89 B.R. 503 (Bankr. E.D. Pa. 1988) (HCFA could not compel hospital to pay prepetition Medicare overpayments as condition for post discharge Medicare transactions.)

In re Bradley, 989 F.2d 802 (5th Cir. 1993) (bankruptcy court has jurisdiction, even after case was closed, to consider whether Texas Commission of Insurance violated § 525 by conditioning debtor's ownership on payment of a fraud claim discharged in bankruptcy).

In re Curry, 148 B.R. 966 (S.D. Fla. 1992) (eviction of public housing resident for failure to pay discharged, pre-petition rent violates § 525). *See In re Syzmecki*, 87 B.R. 14 (Bankr. W.D. Pa. 1988); *In re Sudler*, 71 B.R. 780 (Bankr. E.D. Pa. 1987).

There is a clear and conflicted position that the Idaho supreme court has taken in this matter with other state supreme courts and circuit courts. Petitioner requests an answer to this issue and a resolution to the conflict at hand.

Question on respondent's invoking a Statue/State Law that is contravening to the Supremacy Clause and § 525(a) of the Bankruptcy Code:

The state court here does not have the authority to pronounce Judgement appendix C, D and G.

Because of open bankruptcy proceedings by the petitioner, in case number 13-2008-TLM. In *Kwasnik v. State Bar of California*, 2 BNA Bankr. L. Rptr. 653 (Cal. Sup.Ct. 1990) (imposing

continuing moral obligation to pay wrongful death judgment discharged in bankruptcy as grounds for denying applicant admission to the bar would contravene the Supremacy Clause and § 525(a) of the Bankruptcy Code).

State law-based fraudulent transfer actions are one significant class of such matters, with bankruptcy litigants and courts having understood for decades that such matters are the virtually exclusive province of bankruptcy judges. The Supreme Court's first opportunity to resolve these questions was presented in a case that the Court decided in 2017r: *Executive Benefits Insurance Agency v. Arkison (In re Bellingham Insurance Agency, Inc.). Bellingham* involved a fraudulent transfer action. The U.S. Court of Appeals for the Ninth Circuit held, as foreshadowed by *Stern*, that bankruptcy judges are constitutionally precluded from entering final judgments in such actions, despite their designation as core proceedings under the Bankruptcy Code.(702 F.3d 553 (9th Cir. 2012) But the Ninth Circuit nonetheless ruled against the defendant, finding that the defendant had impliedly consented to the bankruptcy court's final adjudication of the matter by failing to challenge the court's authority.

Petitioner seeks and answer to the controversy on this issue between the Idaho Supreme Court and the Bankruptcy courts.

Question on Probate Exception:

The "probate exception" to the federal courts' jurisdiction. See, Storm v. Storm, 328 F.3d 941, 943-44 (7th Cir.2003); Dragan v. Miller, 679 F.2d 712, 713-15 (7th Cir.1982). As recently clarified by the Supreme Court, the exception "reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court. But it does

not bar federal courts from adjudicating matters outside those confines and otherwise within federal jurisdiction." Marshall v. Marshall, --- U.S. ----, ----, 126 S.Ct. 1735, 1748, 164 L.Ed.2d 480 (2006). The probate exception is usually invoked in diversity cases, and the courts are divided over its applicability to federal-question cases, such as this case. Compare In re Marshall, 392 F.3d 1118, 1131-32 (9th Cir.2004), rev'd on other grounds under the name Marshall v. Marshall, supra, and Tonti v. Petropoulous, 656 F.2d 212, 215-16 (6th Cir.1981), holding it applicable to such cases, with Goerg v. Parungao, 844 F.2d 1562, 1565 (11th Cir.1988), holding it inapplicable. Petitioner thinks it is applicable.

The Petition should be granted Just to resolve this important question in this conflicted matter.

Question on expiration of statute of limitations of civil actions under statute of fraud and UFTA:

While the Respondent has contended that the asset transfer by the seller to the petitioner was fraudulent. No such determination was ever made by the United States Bankruptcy Court for the District of Idaho. Respondent also failed to file any claims against petitioner's estate or petitioner personally.

The time for recovery under Medicaid has already expired in the present case being petitioned for Writ of Certiorari. The asset taken by the Respondent in 2018 was transferred to the petitioner in 2006. The case commenced in 2017 which is 11 year from the year of transfer see copies of transfer instrument in Appendix G. which is well beyond the maximum of 10 years in UFTA.

In Section 4(a)(1): A transfer is fraudulent (whether the creditor's claim arose before or after the transfer was made) if the debtor made the transfer with actual intent to hinder, delay, or defraud any creditor.

A claim for relief with respect to a fraudulent transfer is extinguished unless action is brought:λ(a) under Section 4(a)(1), within 4 years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant;λ(b) under Section 4(a)(2) or 5(a), within 4 years after the transfer was made or the obligation was incurred; orλ(c) under Section 5(b), within one year after the transfer was made or the obligation was incurred.

Is UFTA time limit superseded? There is a clear and conflicted approach to the issue under UFTA and Sate of Idaho Medicare recovery law. Petition should be Granted to resolve this controversy.

Claims brought by a governmental unit are dischargeable:

Petitioner's home is discharged under United States Bankruptcy Court Order 13-20058-TLM dated September 20, 2013. See Appendix J

Section 1141(d)(6)(A) provides in part that "the confirmation of a plan does not discharge a debtor that is a corporation from any debt . . . of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit." Section 523(a)(2) refers to debt "for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained by" certain false representations. If state claims are grounded in harms to citizens of the states but not the states themselves, the claims were not debts "owed to a domestic government unit." Here the State of Idaho did not themselves suffer losses due to the alleged false

representations. Petitioner's assetts were not "obtained by" those representations. The states argued that since the underlying state consumer protection laws gave the states standing to pursue claims for fraud upon their citizens, any judgment would be "owed" to the states under section 1141(d)(6)(A). They further argued that section 523(a)(2) does not require that the claimant itself rely on or suffer losses on account of the misrepresentations.

In *Field v. Mans*, 516 U.S. 59, 69 (1995), which it interpreted as establishing the general principle that creditors are protected by 523(a)(2) only if they rely on the misrepresentations at issue and are damaged by such reliance. With section 523(a)(7), which provides that "a fine, penalty or forfeiture payable to or for the benefit of a government unit, the forfeiture must be pecuniary, which Medicaid recovery is not. Are the Governmental Unit claims therefore dischargeable as Medicare recovery is for the Benefit of the Public and not for a governmental unit? The writ should be granted for this reason alone.

The state court of last resort was aware (see appendix A and B) of the errors in the Lower court rulings.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, Section 8, Clause 4 of the United States Constitution empowers Congress to establish "uniform Laws on the subject of Bankruptcies throughout the United States." Section 1129(a) of title 11 of the United States Code (the "Bankruptcy Code") provides in pertinent part that:

The United States Supreme Court recently decided a case involving the discharge injunction. In Taggart v. Lorenzen, the issue was the legal standard for holding a creditor in civil contempt when the creditor violates the bankruptcy discharge order. In a unanimous decision, the Supreme Court held that a court may hold a creditor in civil contempt for violating a

discharge order if there is *no fair ground of doubt* as to whether the order barred the creditor's conduct. In other words, civil contempt may be appropriate if there is no objectively reasonable basis for concluding that the creditor's conduct might be lawful. Did a violation of automatic stay occur? There is a conflict between the Idaho Supreme court and the Supreme courts of other states.

Although a discharge order often has little detail, the Supreme Court pointed out that, under the Bankruptcy Code, all debts are discharged unless they are a debt listed as exempt from discharge under Section 523. A related case in Taggart v. Lorenzen has recently been resolved in this matter, that could have an impact on the proceedings that commenced prior to this case, prior to the said resolution. Granting the writ of certiorari would therefore ensure that petitioner has not been unduly prejudiced by the Nez Perce County Court's decision.

In adopting the "no fair ground of doubt standard," the Supreme Court previously rejected two other standards, one more lenient and one more harsh. First, the Supreme Court rejected a pure "good faith" test – a creditor's good faith belief that its actions did not violate the discharge would absolve it of contempt. Second, the Supreme Court rejected a strict liability test – if a creditor violated the discharge, he would be in contempt regardless of his subjective beliefs about the scope of the discharge order or whether there was a reasonable basis for concluding that his conduct did not violate the discharge order.

Held that: A court may hold a creditor in civil contempt for violating a dis-charge order if there is no fair ground of doubt as to whether the order barred the creditor's conduct. Pp. 4–11. (a) This conclusion rests on a longstanding interpretive principle: When a statutory term is "'obviously transplanted from another legal source, it 'brings the old soil with it. Hall v. Hall, 584 U. S. ___, ___. Here, the bankruptcy statutes specifying that a discharge order "operates as

an injunction," 11 U. S. C. §524(a)(2), and that a court may issue any "order" or "judgment" that is "necessary or appropriate" to "carry out" other bankruptcy provisions, §105(a), bring with them the "old soil" that has long governed how courts enforce injunctions. In cases outside the bankruptcy context, this Court has said that civil contempt "should not be resorted to where there is [a] fair ground of doubt as to the wrongfulness of the defendant's conduct." California Artificial Stone Paving Co. v. Molitor, 113 U. S. 609, 618. This standard is generally an objective one. A party's subjective belief that she was complying with an order ordinarily will not insulate her from civil contempt if that belief was objectively unreasonable. This conflicts with the present position of the Idaho Supreme Court.

The discharge order, bars creditors from attempting to collect any debt covered by the order. See 11 U. S. C. §524(a)(2). The question presented here concerns the criteria for determining when a court may hold a creditor or claimant in civil contempt for attempting to collect a debt that a discharge order has immunized from collection. The discharge order, like many such orders, goes no further than the statute: It simply says that the debtor "shall be granted a discharge under §727." App. 60; see United States Courts, the statute cited in the discharge order, states that a discharge relieves the debtor "from all debts that arose before the date of the order for relief," "Except as provided in section 523." §727(b). Section 523 then lists in detail the debts that are exempt from discharge. §§523(a)(1)– (19). The words of the discharge order, though simple, have an important effect: A discharge order "operates as an injunction" that bars creditors from collecting any debt that has been discharged. §524(a)(2)

The expense for Medicaid for Delores Adamson (seller) is a Pecuniary in nature. But for, the loss incurred by the state of Idaho in Providing long term Medicare for Delores Adamson, the state of Idaho had no claim upon the discharged asset of the Petitioner/debtor. The Petition should be

Granted to resolve the controversy Between the Supreme court of Idaho and the Bankruptcy court. In *Tibble v. Farmers Grain Express Inc. (In re Michigan Biodiesel, LLC)*, 510 B.R. 792 (Bankr. W.D. Mich. 2014), the bankruptcy court held that Google could still contest the voidability of the underlying transfers—it just had to do so as an affirmative defense, bankruptcy court pointed to the defense available under section 550(b)(1) for "a transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided." Since the transferee of a transfer that is not avoidable cannot have "knowledge of the voidability of the transfer avoided," the court reasoned that this provision effectively establishes a defense that the initial transfer was not avoidable.

The statutory requirement that the transfer be "of an interest of *the debtor*" or "property of *the debtor*" (emphasis added) has important implications for claims brought under sections 544 and 548 in the aftermath of a merger or acquisition. This point is illustrated by a recent decision from the District Court of Delaware, affirming the dismissal of fraudulent transfer claims brought under sections 544 and 548 for failure to allege transfer of property by a debtor. *Miller v. Matco Electric Corp. (In re NewStarcom Holdings)*, Civ. No. 17-309 (D. Del. Sept. 6, 2019).

In re Cashco Inc., No. 18-11968-j7 (Bankr. D.N.M. March 26, 2019). Court held that the automatic stay is not applicable to removal or to motions to remand the action back to state court, but holding that continuation of the action, beyond mere consideration of a motion to remand, was barred by the automatic stay. Since the Idaho Supreme Court did not review this decision of the lower court. The Petition should be granted just for this reason.

US Supreme court Rule 10(c) (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has

decided an important federal question in a way that conflicts with relevant decisions of this Court.

A transferee of an alleged fraudulent transfer may assert a defense from such liability by establishing that it received the transfer in good faith and for reasonably equivalent value. *See* 11 U.S.C. § 548(c); Tex. Bus. & Com. Code § 24.009(a). Many courts have held that a transferee lacks good faith if it has "inquiry notice," that is, if it has knowledge that would make a reasonable person suspicious and suggest a need for further investigation, even if it lacks actual knowledge of the fraudulent nature of the transfer. But some courts have held that even a transferee with inquiry notice can maintain a good faith defense if it establishes that an investigation into the facts would have been futile because it would not have revealed the fraud. In *Javney v. GMAG, L.L.C.*, No. 17-11526, 2019 U.S. App. LEXIS 759 (Jan. 9, 2019), the Fifth Circuit held that such a futility defense was not available under the Texas Uniform Fraudulent Transfer Act ("TUFTA"). A deviation from normal appellate practice and to require immediate determination in this Court. See 28 U. S. C. § 2101(e).

A Federal Question:

Federal jurisdiction is otherwise proper, whenever a controversy in a suit between parties arises respecting the validity or construction of a will, or the enforcement of a decree admitting it to probate, there is no more reason why the Federal courts should not take jurisdiction of the case than there is that they should not take jurisdiction of any other controversy between the parties. Gaines v. Fuentes, 92 U.S. 10, 22 (1876). The writ of certiorari should be granted just to resolve this controversy.

PRO SE LITIGANTS

Federal Rule of Civil Procedure 8(e), as noted supra, provides that "[p]leadings must be construed so as to do substantial justice." As detailed in Part II, many of the courts granting pro se litigants the benefits of liberal construction on appeal do so in reliance on this rule as well as Supreme Court decisions validating its application to complaints and other pleadings. As a result, it is only a small leap to see the procedural process by which the factored solution to the pro se liberal construction problem could be brought about—the Federal Rules of Appellate Procedure. Neither the Federal Rules of Appellate Procedure nor the local rules of any geographic circuit contain an appellate counterpart to Rule 8(e). Adopting such an appellate rule, however, would provide a generally applicable standard bolstering the circuits' use of judicial discretion when employing waiver while avoiding the problems presented by reliance on a freestanding pro se/represented classification scheme. Importantly, Rule 8(e) does not discriminate. It requires all pleadings to be construed to do justice and leaves the courts with authority to decide how to accomplish that end on a case-by-case basis.

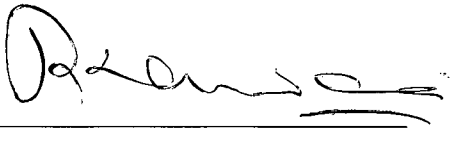
The United States Supreme court is requested to construe this petition to construe them most liberally towards the petitioner who is acting Pro Se.

CONCLUSION

For the reasons discussed above the Writ of Certiorari should be granted.

Respectfully Submitted

Dated: 4 of JANUARY 2020



Praveen Khurana, Pro Se