No. 22-7873 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

AGUINA
PETITIONER

vs.

CHOONG-DAE KANG aka MITSUYO OKAMOTO, et. al.
KARL T. ANDERSON CHAPTER 7 TRUSTEE
RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES COURTS OF APPEAL
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

AGUINA
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QUESTION(S) PRESENTED

Did the Court of Appeals for the Ninth Circuit err in affirming the decision of the United States Bankruptcy Appellate Panel approving the settlement of Trustee's, Karl T. Anderson, and petitioner ex-wife, Choong Dae Kang; an abuse of discretion.

Did the Court of Appeal and the Bankruptcy Appellate Panel abuse its discretion in holding that public policy need not be considered in determining whether to approve the settlement, departing from the accepted and usual course of judicial proceeding, and sanctioned such a departure by a lower court.

Did the Court of Appeal and the Bankruptcy Appellate Panel abuse its discretion in finding that the settlement did not violate public policy such as by absolving appellee Kang of misconduct in the Family Court and excusing her from making mandatory statutory financial disclosures.

Did the Court of Appeal for the Ninth Circuit entered a decision in conflict with the decision of United States Court of Appeal State of California Fourth Appellate District Division Two.

Did the Court of Appeal for the Ninth Circuit, the Bankruptcy Appellate Panel and the United States Bankruptcy Court Central District of California, Riverside Division, enter a decision in conflict with relevant decisions of the United States Supreme Court.

Did the Court of Appeal for the Ninth Circuit, the Bankruptcy Appellate Panel and the United States Bankruptcy Court Central District of California, Riverside Division abuse its discretion as Article I bankruptcy judges, violate the Constitution of Article III, in that the court lacked the constitutional authority to enter a final judgment in the claims allowance process.

Was the Court of Appeal for the Ninth Circuit, the Bankruptcy Appellate Panel and the United States Bankruptcy Court Central District of California, Riverside Division evaluation of the *A & C Properties* factors decision an abuse of discretion in turning a blind eye to the records of the court in allowing the parties to take advantage of its wrongdoing.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[x] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of This petition is as follows:

MYUNG-JA KANG aka HIROKO OKAMOTO

KWANG-SA KANG aka MASASHI OKAMOTO

RELATED CASES

Aguina vs. Choong Dae Kang, No. SWD015783 Superior Court of California, County of Riverside. Judgment entered December 15, 2016 and September 27, 2012.

Kang vs. Aguina, No. RIC10019528 Superior Court of California, County of Riverside. Judgment entered April 02, 2014.

In. re: Aguina United States Bankruptcy Court Central District of California Riverside Division Judgment entered January 24, 2019. Motion for Relief from Automatic Stay Under 11 U.S.C. § 362.

Choong Dae Kang aka Mitsuyo Okamoto aka KC Kang, Myung- Ja Kang aka Hiroko Okamoto, and Kwang -Sa Kang aka Masashi Okamoto vs. Aguina No. 6:17-bk-17472-WJ and Adv. No. 6:17-ap-01270-WJ. Judgment entered February 7, 2020. Partial Summary Judgment.

In re: Aguina United States Bankruptcy Court Central District of California Riverside Division Judgment entered July 7, 2021. Order Granting Motion Approving Settlement and Compromise of Disputes by and Among Chapter 7 Trustee and Choong Dae Kang and Related Parties.

Aguina vs. Choong Dae Kang, Myung-Ja Kang, Kwang-Sa Kang, Karl T. Anderson, Chapter 7 Trustee BAP No. CC-21-1163-FLS, BK. No. 6:17-bk-17472-WJ United States Bankruptcy Appellate Panel of the Ninth Court. Judgment entered February 3, 2022. (Memorandum)

Choong Dae Kang et al. vs. Aguina Court of Appeal of the State of California Fourth Appellate District Division Two. No. E065768, Eo66587, Eo67169. Judgment entered January 16-2019. (Opinion)

Choong Dae Kang et al. vs. Aguina Court of Appeal of the State of California Fourth Appellate District Division Two. No E068756 (Super. Ct. No. RIC10019528). Judgment entered November 8, 2021. (Opinion)

TABLE OF CONTENTS

TABEL OF AUTHORITES CITED

STATUTES AND RULES

OTHERS

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

[x] For cases from **federal courts:**

[x] The opinion of the United States court of appeal appears at Appendix A to the petitioner and is

[x] is unpublished.

Decision appears at p. 8.

[x] The opinion of the United States court of appeal appears at Appendix B To the petitioner and is

[x] is unpublished.

[x] For cases from **state courts:**

[x] The opinion of the Fourth Court of Appeal Division 2 court appears at Appendix F. to the petition and is

[x] is unpublished.

[x] The opinion of the Fourth Court of Appeal Division 2 court appears at Appendix G. to the petition and is

[x] is unpublished.

Decision appears at p. 19-20.

JURISDICTION

[x] For cases from **federal courts:**

The date on which the United States Court of Appeal decided my case was

January 17, 2023

[x] A timely petition for rehearing was denied by the United States Court of Appeal on the following date: February 14, 2023, and a copy of the order denying rehearing appears at Appendix K.

[x] An extension of time to file the petition for a writ of certiorari was granted to and including June 16, 2023, on April 14, 2023 in Application No. 22A908.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

In the case at bar, the constitutional provisions involved in this case are the Rooker v. Fidelity Tr. Co., 263 U.S. 413 (1923) and Dist. Of Columbia Court of Appeal v. Feldman, 460 U.S. 462 (1983). The doctrine protects the jurisdiction division of authority between federal and state courts by preventing a lower court from sitting as appellate court over a state court decision, a power reserved to the Supreme Court. Durham v. Haslam, 528 Fed. App'x 599, 563 (6th Cir, 2013) (citations omitted); 28 U.S.C. § 1257

Stern v. Marshall, 564 U.S. 462, 131 S. Ct. 2594, 180 L. Ed. 2d 475. In Stern, The Supreme Court held that as an Article I court, a bankruptcy court "lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor proof of claim" in a bankruptcy case. Stern, 131 S.Ct. at 2620. Put in another way, though 28 U.S.C. § 157(b)(2)(C) authorized the bankruptcy court to decide the merits of the bankruptcy estate's counterclaim against a creditor, such an exercise of judicial power by an Article I bankruptcy judge violated the Constitution, because "Congress may not bypass Article III simply because a proceeding may have some bearing on a bankruptcy case; the question is whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claim allowance process" Id. at 2618. [760 F.3d1044].

STATEMENT OF THE CASE

This appeal addresses errors of law and fact by the bankruptcy courts concerning approval of a settlement between bankruptcy trustee Karl T. Anderson ("Trustee") and petitioner's ex-spouse and her related family members (collectively "Kang"), whereby Kang paid only $47,726.77, waived some claims, escaped substantial sanctions imposed by the Family Court, and received all the bankruptcy estate interests in community property (not all of which was even identified) despite the Family Court's concern that millions of dollars of assets went missing while under Kang's care. See Appendix I. The settlement benefitted only Kang, the Trustee, and the Trustee's professionals and will substantially impair the petitioner's fresh start as promised by the Bankruptcy Code.

On September 5, 2017, petitioner filed a petition for relief under Chapter 11 of the Bankruptcy Code. The primary reason for the bankruptcy filing was to protect from foreclosure by hard money lenders on certain real property interests

held by petitioner. Petitioner's Chapter 11 case was converted to a case under Chapter 7 by Order dated December 26, 2017, by the bankruptcy court before given a chance to work out a payment plan with the court.

Pending in Family Court since 2009 was an acrimonious marital dissolution proceeding between petitioner and Kang. Petitioner has long sought to require Kang to make the extensive, mandatory financial disclosures required by California Family Code section 2105. However, Kang repeatedly failed and refused to make the disclosures, even after the Family Court ordered her to do so. The Family Court even imposed monetary sanctions on her multiple times, to no avail. Finally, by order dated December 15, 2016, the Family Court imposed terminating sanctions against Kang, imposed $30,000 in additional monetary sanctions against her, and entered her default, which precluded her from participating in the Family Court proceeding. The Family Court held that:

> "It is clearly apparent to the Court that Respondent has intentionally refused to disclose the existence of these assets to hide their existence from Petitioner. Further, millions of dollars in financial community property assets, of which Petitioner has a vested interest, have gone missing while under Respondent's care and control."

(referencing sanctions, Kang's hiding of assets, her numerous trips despite claiming no income, her access to a million dollars in undisclosed cash, and her violation of court orders); see also Choong-Dae Kang v. Aguina, 2019 Westlaw 211147 at *17 (January 16, 2019), (unpublished). Appendix F at *17.

In addition, the family court reserved jurisdiction to adjudicate a judgment from the civil case, one in which the judgment render had been stipulated to by the petitioner and Kang to be a debt to the community. The judgment was stayed by the

civil court. Choong-Dae Kang v. Aguina, 11-08-2021 Appendix G. at 3-4-5. Judgment Order Stayed 4-2-2014 Appendix H.

Given the fact that the civil judgment was agreed to be a debt to the community, and it had been stayed from enforcement by the civil court, Kang filed an adversary suit in the bankruptcy court and receive a non-discharged debt over $750,000 as a final judgment from the bankruptcy court against the petitioner on the judgment yet to be adjudicate by the family court who held jurisdiction. The judgment debt was for $497,500 to be divided between the petitioner and Kang, yet the bankruptcy court in violation of the Rooker Feldman doctrine adjudicated the Adversary suit filed by Kang against the petitioner. Appendix E.

Rooker v. Fidelity Tr. Co., 263 U.S. 413 (1923) and Dist. Of Columbia Court of Appeal v. Feldman, 460 U.S. 462 (1983). The doctrine protects the jurisdiction division of authority between federal and state courts by preventing a lower court from sitting as appellate court over a state court decision, a power reserved to the Supreme Court. Durham v. Haslam, 528 Fed.App'x 599, 563 (6th Cir, 2013) (citations omitted); 28 U.S.C. § 1257.

The Trustee intervened in the Family Court, indicating he would engage family law counsel to move the case forward, but he never did so. While investigating the bankruptcy estate's interest in community property, the Trustee obtained testimony and documents from Kang and her professionals that shed light on her finances, but the Trustee withheld that information from petitioner (the Trustee admits conducting Kang's 2004 examination and receiving documents, but none of the hearsay information is disclosed). With Kang continuing to block any division of assets by her non-cooperation, petitioner sought an order from the bankruptcy court requiring the Trustee to share Kang's financial information. However, after filing a motion at the order of the court, the bankruptcy court blocked

petitioner's effort and deferred to the Family Court, allowing Kang to continue stonewalling efforts to resolve property division issues.

After the Trustee failed to seek a division of assets in the Family Court, petitioner filed a motion to compel abandonment of the bankruptcy estate's interests in community property so that he could move the case forward himself in the Family Court. The Trustee responded with a motion to settle with Kang (the "Settlement Motion"), which, among other things, allowed Kang to retain all identified and unidentified community property, including the millions of dollars of assets that went missing in Kang's care. Petitioner not only opposed the Settlement Motion, but proposed that instead of settling with Kang, the Trustee should accept $53,000 from petitioner and let the two-party dispute be resolved in the Family Court where all unfounded claims Kang alleged in her adversary suit were nonexistent in the family court or yet to be adjudicated by the family court per its jurisdiction. Petitioner also paid off the remaining non-insider allowed claims totaling $4,098.12 (Trustee admitting that only $4,098 of non-insider claims remained). The Trustee rejected this proposal.

In re Levander, 180 F 3d.1114, 1118, 1119 (9th Cir. 1999) ("a federal court may amend a judgment or order under its inherent power when the original judgment or order was obtained through fraud on the court. "Fraud on the court" embrace [s] only that species of fraud which does or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.").

After two hearings and briefing (including supplemental briefing), the bankruptcy court made oral findings, approved the settlement and transfer of assets over petitioner's objections, and denied petitioner's motion to abandon. This appeal followed shortly after entry of the Settlement Order.

The bankruptcy court made multiple errors. First, despite the Family Court's concern that millions of dollars of community property went missing while under Kang's care, the bankruptcy court approved the settlement when the Trustee never presented a value or range of values for the claims/assets that were being sold and transferred to Kang or for the consideration that Kang purportedly was giving for those claims/assets. The court made no finding that Kang was paying fair value for the claims/assets, nor could it do so because Kang received claims/assets that were never identified by her or by the Trustee. Likewise, the court could not properly make findings regarding the applicable settlement factors when all claims/assets being transferred were never identified or disclosed.

The court also disregarded that the settlement was not fair and equitable to petitioner incorrectly holding that once creditors' claims were addressed, the inquiry ends. The settlement also lacked consideration, because Kang paid less than her pre-existing obligation to pay $72,790 (plus interest), which included some $63,000 in unpaid sanctions from the Family Court on account of her failure to make mandatory financial disclosures. The court also failed to defer to the Family Court's reserved jurisdiction over community property and debt allocation issues.

A bankruptcy court may approve a settlement or compromise after notice and hearing. F.R. Bankr. P. 9019. Although a bankruptcy court has wide latitude in approving settlements, its discretion is not unlimited. A settlement must be "fair and equitable." Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610 (9th Cir. 1988); see also Martin v. Kane (In re A & C Properties), 784 F.2d 1377, 1381 (9th Cir. 1986) ("A&C Properties") ("[a]n approval of a compromise, absent a sufficient factual foundation which establishes that it is fair and equitable, inherently constitutes an abuse of discretion"). The Ninth Circuit Court of Appeal in Woodson cited with approval Protective Comm. for

Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414 (1968) ("Anderson"), in which the Supreme Court held that compromises must be fair and equitable and that courts must consider "all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise." Id. at 424; Woodson, 839 F.2d at 620-21. Woodson thus requires that a compromise satisfy both A&C Properties and Anderson. Woodson, 839 F.2d at 620 ("We are unable to approve the bankruptcy court's order authorizing the compromise because the bankruptcy court failed to follow A&C Properties and Anderson").

Basic to the settlement process "is the need to compare the terms of the compromise with the likely rewards of litigation." Greif & Co. v. Shapiro (In re Western Funding, Inc.), 550 B.R. 841, 851 (9th Cir BAP 2016) (citing Anderson, 390 U.S. at 424-25). At a minimum, a bankruptcy court must consider the following familiar factors, which often are referred to as the "A&C Properties factors": (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. A&C Properties, 784 F.2d at 1381. The bankruptcy courts need not exhaustively analyze the merits and likely range of recovery, but it must "canvas the issues and see whether the settlement falls below the lowest point in the range of reasonableness." In re Pacific Gas & Electric Co., 304 B.R. 395, 417 (Bankr. N.D. Cal. 2004) (citations omitted). The Trustee, as the proponent of the settlement, bears the burden of proving that a proposed settlement is fair and equitable. A&C Properties, 784 F.2d at 1381.

As can be seen from the court order signed on December 15, 2016, Kang was handed terminating sanctions and fined $30,000 without the ability to participate in the prove up hearing that would have decided the assets and debts of

the community. Furthermore, the petitioner stated to the Trustee that he would be responsible for any litigation cost associated with filing forms and attending the hearing at no cost to the estate. Kang was injured by the family law court's terminating sanction. Stated bluntly, she was the state-court loser. She then sought to buy her way out of the consequences of such ruling by entering a settlement with the trustee.

Also, when considering the "fair and equitable" standard for approving a settlement, the bankruptcy court must consider the fairness of proposed settlement to non-settling parties in interest. See In re Nutraquest, Inc., 434 F.3d 639, 645 (3d Cir. 2006). Indeed, "looking only to the fairness of the settlement as between the debtor and the settling claimant and ignoring third-party rights contravenes a basic notion of fairness." Feld v. Zale Corp (In re Zale Corp.), 62 F.3d 746, 754 (5th Cir. 1995) (citing U.S. v. AWECO, Inc. (In re AWECO, Inc.), 725 F.2d 293, 298 (5th Cir.), cert. denied, 469 U.S. 880 (1984)); see also In re Masters Mates & Pilots Pension Plan and IRAP Litigation, 957 F.2d 1020, 1026 (2d Cir. 1992) ("where the rights of one who is not a party to a settlement are at stake, the fairness of the settlement to the settling parties is not enough to earn the judicial stamp of approval"); Williams v. Vukovich, 720 F.2d 909, 921 (6th Cir.1983) ("In making the reasonableness determination the court is under the mandatory duty to consider the fairness of the decree to those affected . . .").

The bankruptcy court and the trustee has asserted that because the petitioner file for bankruptcy, he has given up all rights to his assets to the estate. Partial truth, however, as stated above, "the fairness of the settlement to the settling parties is not enough to earn the judicial stamp of approval". Petitioner's original filing was for Chapter 11, but the bankruptcy court converted the case to a Chapter 7 in two months without giving the petitioner the opportunity to set a payment schedule to his two creditors because of petitioner ex-wife filing an adversary

claim for the civil judgment reserved for the family court jurisdiction yet to be adjudicated.

When bankruptcy estate assets, including potential claims, are disposed of as part of a compromise under F.R. Bankr. 9019, the transaction must be treated and analyzed as both a F.R. Bankr. P. 9019 compromise and a sale under 11 U.S.C. § 363 and F.R. Bankr. P. 6004. See Goodwin v. Mickey Thompson Enter. Group, Inc. (In re Mickey Thompson Enter. Group, Inc.), 292 B.R. 415 (9th Cir. BAP 2003); In re Western Funding, 550 B.R. at 854 ("settlement of a claim that is property of the estate is equivalent to a sale of that claim to the defendant"); see also, Fitzgerald, 428 B.R. at 884. In the context of a sale of a claim or other asset, the bankruptcy court's obligation is "to assure that optimal value is realized by the estate under the circumstances." Simontob v. Claims Prosecutor, LLC (In re Lahijani), 325 B.R. 282, 288 (9th Cir. BAP 2005).

Thus, a trustee must offer evidence explaining why the price paid for a claim or other asset is fair and reasonable. Without presenting and analyzing such evidence, a sale of assets or property rights cannot be approved. In re Fitzgerald, 428 B.R. at 883-84. And when competition is constrained such as where the number bidders for an asset is small, the transaction–particularly the price–requires even closer scrutiny. Id. at 883; see also Larijani, 325 B.R. at 289 ("[t]he sale of a cause of action to a defendant in circumstances in which the plaintiff is the only competitor is an example of constrained competition that warrants more scrutiny").

Finally, appropriate evidence supporting the settlement must be presented to and analyzed by the bankruptcy court in determining whether to approve it. As the Supreme Court explained in Anderson:

> "It is essential . . . that a reviewing court have some basis for distinguishing between well-reasoned conclusions arrived at after a

> comprehensive consideration of all relevant factors, and mere boilerplate approval phrased in appropriate language but unsupported by evaluation of the facts or analysis of the law."

Anderson, 390 U.S. at 434. Thus, a bankruptcy court must make an independent determination when approving a settlement. Air Line Pilots Ass'n, Int'l. v. American Nat'l Bank & Trust Co. of Chicago (In re Ionosphere Clubs, Inc.), 156 B.R. 414, 426 (S.D. N.Y.1993), aff'd, 17 F.3d 600 (2d Cir. 1994). And a bankruptcy judge cannot "simply accept a trustee's word that the settlement is reasonable, nor may he merely 'rubber stamp' a trustee's proposal." Id. at 426 (citing In re Energy Co-op., Inc., 886 F.2d 921, 924 (7th Cir.1989)). A settlement that is not based upon "well-reasoned conclusions arrived at after a comprehensive consideration of all relevant factors" will not survive appellate review. See Plummer v. Chemical Bank, 668 F.2d 654, 659 (2d Cir.1982).
In re KVN Corp. (Bankr.9th Cir. 2014) 514 B.R. 1,7 A trustee may sell assets only if the sale will result in a meaningful distribution to creditors…If the sale will not result in a meaningful distribution to creditor's, the trustee must abandon the asset.

Since there was only one creditor to be paid off and the petitioner paid that creditor, the only one left as a creditor was petitioner's ex-wife who's allege claims were yet to be validated, determined, or adjudicated by the family court. The settlement and the court decision to approve it denied the petitioner ability to litigate the claims in the family court where it had jurisdiction under Rooker Feldman doctrine.

This case has been litigated by the United States Bankruptcy Court for the Central District of California, Riverside Division, the United States Bankruptcy Appellate Panel for the Ninth Circuit, and the United States Bankruptcy Court of Appeals for the Ninth Circuit. As noted in this brief, Superior Court of Riverside

Family Court determined that Kang was hiding assets and perpetrated fraud on the court throughout all Family Court proceedings in this case. By approving the settlement between the Trustee and Kang, the United States Bankruptcy Court for the Central District of California, Riverside Division, intervened in the family law matter and cut off the petitioner's substantive right to adjudicate at his own expense even though the petitioner asked the court to consider the doctrine of abstention.

The Doctrine of Abstention Mitigates in Favor of Approving a Compromise that would Interfere with Prior Family Law Rulings. Abstention is a judicially created doctrine to resolve conflict between Federal and State Court and is based on comity with state court. See 17A Charles Alan Wright, Arthur R. Miller & Edward H. Copper, Federal Practice and Procedure: Jurisdiction 2d §§ 4241-55 (2d ed. 1988).

A. Mandatory abstention

A bankruptcy court must abstain where:

(1) timely motion is made by party;

(2) proceeding is based on state law claim or cause of action;

(3) proceeding is "related to" a case, not "arising under" the Code or "arising in" case; In re Chicago, Milwaukee, St. Paul & Pac. R.R.., 6 F.3d 1184, 1194 (7th Cir. 1993); In re Emerald Acquisition Corp, 170 B.R. 632, 646 (Bankr. N.D. Ind. 1994) (non-core proceeding requirement is most important factor).

(4) but for the bankruptcy, proceeding would have been brought in state, not Federal, court (i.e.,. no independent ground of Federal jurisdiction); and

(5) action is commenced which the bankruptcy court finds will be timely adjudicated. 28 U.S.C. § 1334(c)(2).

All the elements for mandatory abstention apply here. petitioner filed motion to lift the stay in bankruptcy court and it was granted to allow characterization of assets

to proceed in the family law matter. Appendix C. The claims were all state related and existed prior to the bankruptcy filing. But for the intervening estate and the appointment of the Trustee, any proposed settlement would be in front of the state court, not the federal bankruptcy court. Therefore, petitioner should have been allowed the opportunity to litigate his state claims without being cut off, thereby time should have been allowed for the family court to adjudicate the judgment claims of Kang. Moreover, as discussed above regarding the large civil judgment entered against petitioner, Kang and the petitioner stipulated that said civil court judgment was to be adjudicated by Family Court as the court with priority jurisdiction. Appendix J.

The bankruptcy approval of the settlement between Kang and the trustee and the subsequent ruling by the United States Bankruptcy Appellate Panel of the Ninth Circuit and the current ruling of the United States Court of Appeals for the Ninth Circuit affirming the bankruptcy court approval is for all practical purpose is a ruling on the merits (or perceived lack thereof) of Kangs family law claims. The bankruptcy court's lack of jurisdiction is shown in the Supreme Court decision in Stern v. Marshall, 564 U.S. 462, 131 S. Ct. 2594, 180 L. Ed. 2d 475. In Stern, the Supreme Court held that as an Article I court, a bankruptcy court "lacked the constitutional authority to enter a final judgment on a state law counterclaim that is not resolved in the process of ruling on a creditor proof of claim" in a bankruptcy case. Stern, 131 S.Ct. at 2620. Put in another way, though 28 USC § 157(b)(2)(C) authorized the bankruptcy court to decide the merits of the bankruptcy estate's counterclaim against a creditor, such an exercise of judicial power by an Article I bankruptcy judge violated the Constitution, because "Congress may not bypass Article III simply because a proceeding may have some bearing on a bankruptcy case; the question is whether the action at issue stems from the bankruptcy itself or would necessary be resolved in the claim allowance process" Id. at 2618. [760 F.3d1044].

However, that is just what the lower bankruptcy court did on the judgment claim in the family court as can be seen by the order made by the bankruptcy court on February 7, 2020. Appendix D.

The decision and affirmed ruling given by the United States Court of Appeals for the Ninth Circuit has undermined well-established case law of the U.S. Supreme Court, its own case law, as well as other circuit courts.

REASONS FOR GRANTING THE PETITION

The decisions and rulings made by all three Courts are catastrophic. These decisions and rulings encourage litigants to violate federal law, state law, and constitutional and statutory laws and encourage a lack of responsibility on the part of the Courts to prevent such actions. The ruling undermines well-established case law of the United States Supreme Court, United States Court of Appeals for the Ninth Circuit, and other circuits.

This case is a matter of first impression, "[i]nvolv[ing] a legal or factual issue of unique interest or substantial public importance. The Doctrines of Rooker Feldman, Abstention, Equitable Trolling and Equitable Estoppel due to extrinsic fraud and fraud on the court are main arguments throughout petitioner Opening Brief and Reply Briefs. The United States Court of Appeals for the Ninth Circuit ruling *alters* and *modifies* these Doctrines by ignoring them in a manner that shocks the conscience and undermines one's belief in our justice system. By relying exclusively on the ruling of the United States Bankruptcy Appellate Panel for the Ninth Circuit, without considering well established exceptions Circuit Rules 36-2(a)&(d), the ruling "disposes of cases in which there are published opinions by lower courts, administrative agencies, and the Supreme Court". The District Court also overlooked pleadings of extrinsic fraud and fraud on the court as well as Constitutional Law. The use of generic, overbroad memorandums causes criticism of the Ninth Circuit Court of Appeals and existing laws for evading and omitting facts,

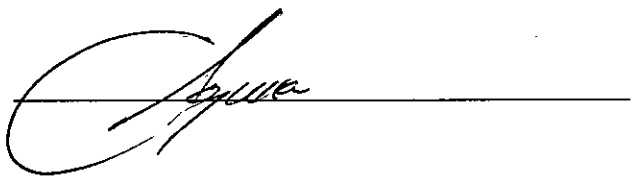
evidence, and well-established cases that are contrary to the ruling. It appears the Ninth Circuit Court of Appeals did not read the petitioner's filings, or briefs, only the *government* Defendants' assertions, Bankruptcy District Court's rulings, and the Bankruptcy Appellate Panel rulings. It appears the Ninth Circuit Court of Appeals' ruling was cut and paste from the Bankruptcy Appellate Panel's ruling as it is almost identical. As such, the Ninth Circuit Court of Appeals has facilitated the continuation of the Kang fraud. This must be corrected.

The petitioner humbly requests that his Petition for Writ of Certiorari be granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6-15-2023