



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: TUESDAY**  
**DATE: AUGUST 8, 2023**  
**CALENDAR: 10:30 A.M. ADVERSARY PROCEEDINGS**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be heard simultaneously: (1) **IN PERSON** in Courtroom 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

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1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
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## PRE-HEARING DISPOSITION INSTRUCTIONS

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### RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

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1. [20-23726](#)-A-11     **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT**  
[21-2005](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT FOR PRELIMINARY  
AND PERMANENT INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, QUIET  
TITLE, RESCISSION, CONCEALMENT FRAUD AND UNJUST ENRICHMENT  
1-14-2021    [[1](#)]

AME ZION CHURCH OF PALO ALTO,  
INC. V. AME ZION WESTERN  
EDWARD JOHNSON/ATTY. FOR PL.

#### **Final Ruling**

The status conference is continued to October 17, 2023, at 10:30  
a.m. Not later than 14 days prior to the continued status  
conference the parties will file a joint status report. Ms. Mulcare  
shall coordinate the meet and confer and preparation of the status  
conference report.

2. [21-22362](#)-A-7     **IN RE: EVA AGUILERA**  
[22-2110](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
12-15-2022    [[1](#)]

RICHARDS V. AGUILERA, JR.  
J. CUNNINGHAM/ATTY. FOR PL.

#### **Final Ruling**

Default Judgment was entered on July 25, 2023, ECF No. 32. The  
Status Conference is concluded.

3. [22-20063](#)-A-13     **IN RE: NATHANIEL SOBAYO**  
[22-2032](#)     [FEC-3](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT SEEKING  
CONTEMPT FOR WILLFUL VIOLATION OF THE AUTOMATIC STAY  
6-3-2022     [[1](#)]

SOBAYO V. WELLS FARGO BANK,  
N.A. ET AL  
NATHANIEL SOBAYO/ATTY. FOR PL.

**Final Ruling**

The adversary proceeding dismissed, the status conference is  
concluded. A civil minute order shall issue.

4. [22-21365](#)-A-13     **IN RE: RAFAEL/VIANA LARA**  
[23-2034](#)     [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
4-11-2023     [[1](#)]

LARA, JR. ET AL V. BOSCO  
CREDIT, LLC ET AL  
KIM BEATON/ATTY. FOR PL.

**Final Ruling**

The status conference is continued to August 29, 2023, at 10:30 a.m.  
A civil minute order shall issue.

5. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2027](#)     [CAE-1](#)

STATUS CONFERENCE RE: NOTICE OF REMOVAL  
3-21-2023     [[1](#)]

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
JASON BRAXTON/ATTY. FOR PL.

**No Ruling**

6. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2027](#)     [FEC-2](#)

ORDER TO SHOW CAUSE  
6-9-2023     [[118](#)]

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
TRUSTEE NON-OPPOSITION

**Final Ruling**

The matter has been resolved by order of this court; the matter is dropped from calendar.

7. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2027](#)     [MJH-1](#)

MOTION TO CONSOLIDATE LEAD CASE 23-2027 WITH 23-2031  
5-3-2023     [[36](#)]

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
MICHAEL HARRINGTON/ATTY. FOR MV.

**Final Ruling**

The motion was Granted, Order, ECF No. 194. This case number, 23-2027, was deemed the lead case. This motion is removed from the calendar as moot. No appearances are required.

8. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2027](#)     [REV-2](#)

CONTINUED MOTION FOR REMAND AND/OR MOTION FOR COMPENSATION  
BY THE LAW OFFICE OF REVEILLE LAW, P.C. FOR JASON A.  
BRAXTON, PLAINTIFFS ATTORNEY(S)  
4-20-2023     [\[10\]](#)

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
JASON BRAXTON/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Remand to State Court and for Attorneys' Fees

**Notice:** Written opposition filed

**Disposition:** Granted in part, denied in part

**Order:** Order from chambers

**Date Converted:** November 18, 2021

This is a motion to remand. 28 U.S.C. § 1452. Plaintiff and Counter-defendant Reliance Community, Inc. et al. move to remand this case back to Sacramento County Superior Court and seek attorneys' fees for bringing the motion. Defendants and Counterclaimants Lillian Sisayan and Isagani Sisayan oppose the motion.

### **FACTS**

As alleged in the now-removed state court complaint (which runs 59 pages and 199 paragraphs), Verified Compl., *Reliance Community, Inc. v. Dignity Health*, No. 34-2023-00333390 (Sacramento County Superior Court 2023), Notice of Removal, ECF No. 1, this dispute arose in the following manner.

The cast of key players includes the following: (1) plaintiffs Reliance Community, Reliance Group, Reliance Care, Reliance Village, Golden Pathways and Harmony Living (collectively "Reliance Plaintiffs), who ran residential care facilities for the elderly); (2) defendant Dignity Health, who was an insurance company and/or health care provider; and (3) defendants Lillian Sisayan and Isagani Sisayan are individuals, which own and/or operate about a half dozen companies which operate under permutations of the name "Young at Heart."

In and about 2016, Dignity Health and Reliance Community started a program whereby elder persons---often otherwise homeless--under the care of Dignity Health would be referred to Reliance Community, which would undertake the residential care of those persons and Dignity Health would pay Reliance Community for those services. Compensation was to be determined on a per person per day basis; the agreed rate was intended to match the level of service required for the individual housed.

The program was so successful that Reliance was unable to provide, directly, residential care services for all the persons that Dignity Health wished to place with them. Dignity Health and Reliance agreed that Reliance could employ third-party subcontractors to provide additional residential care facilities to house persons referred by Dignity Health. Under the terms of the subcontractor arrangement, approved subcontractors agreed to house needy persons and abide by the rules of the referral program. In exchange, the approved subcontractor would submit invoices for services rendered to Reliance, which apparently would in turn be paid by Dignity Health.

Later, Reliance, through its Chief Executive Officer, Pak Wu, entered into discussions with the Sisayans, whereby one or more of the Young at Heart companies would become approved subcontractors to provide residential care services to elderly, homeless persons. In March 2020, Reliance and Sisayan and Young at Heart entered into an agreement by which Sisayans/Young at Heart would provide residential care facility services for elderly persons referred by Dignity Health. As a part of that agreement, Sisayans made representations about Young at Heart to Reliance regarding its financial stability and the adequacy of its capitalization. Sisayans and Young at Heart concealed that it (1) failed to comply with federal and state labor laws regarding wages and hours; (2) there was pending against it a civil action by at least six employees/former employees ("Balocating plaintiffs) for labor law violations; and (3) Sisaysans had engaged in a series of fraudulent transfers of real property to frustrate creditors (including the Balocating plaintiffs).

After the Sisayans entered into the subcontractor agreement with Reliance, the Balocating plaintiffs obtained a default judgment against them in the amount of \$2.1 million. The Balocating plaintiffs commenced collection efforts against the Sisayans and Young at Heart. Among the collection methods employed was an order from the state court assigning "any non-exempt rents and care service payments by earned by the Sisayans and/or Young at Heart" to the Balocating plaintiffs.

A Writ of Execution issued and was served (perhaps not wholly compliant with applicable law) on Reliance Community and, at some point, on Dignity Health.

In July 2021, the Sisayans filed a Chapter 11 bankruptcy. None of the Reliance plaintiffs were listed on the matrix of creditors. But in August 2021, Lillian Sisayan informed Reliance Community through its Chief Executive Officer, Pak Wu, of the bankruptcy. It does not appear that the Reliance Community affiliated companies had actual knowledge of the bankruptcy.

On November 18, 2021, the case was converted to Chapter 7. Order, ECF No. 175.

Sisayan and her attorney encouraged Reliance Community to continue to remit payment for care services to Young at Heart. As the Reliance plaintiffs explain it:

On September 1, 2021 [almost two months after the bankruptcy was filed], Plaintiff RELIANCE COMMUNITY received written correspondence from LEWIS PHON, counsel of record for Defendants LILLIAN SISAYAN and ISAGANI SISAYAN in their Chapter 11 bankruptcy case.

On September 1, 2021, Defendants LILLIAN SISAYAN and ISAGANI SISAYAN, through this written correspondence from their legal counsel and employed agent, represented to RELIANCE COMMUNITY that: (1) Defendant Lillian Sisayan would "take responsibility if you do not pay Mr. Harrington [the Balocating plaintiffs' attorney]"; (2) the residents' care homes "should also be protected from any action by Mr. Harrington"; and (3) payment should continue to be made to Defendants LILLIAN SISAYAN and YOUNG AT HEART.

Verified Compl. ¶¶ 93-94, *Reliance Community, Inc. v. Dignity Health*, No. 34-2023-00333390 (Sacramento County Superior Court 2023), Notice of Removal, ECF No. 1.

Thereafter, between September 2021 and October 2022, Reliance Community remitted monthly payments to Young at Heart.

In May 2022, the Balocating plaintiffs (defendants herein) asserted that monthly payments to the Sisayans and Young at Heart had been assigned by the Sacramento Superior Court to them and all payments from May 2021, should have been paid to the Balocating plaintiffs.

In August 2022, Reliance Community prepared and submitted monthly invoices for 51 residents, who had been referred to Young at Heart under the subcontractor agreement, in the amount of \$231,027.76. *Id.* at ¶¶ 103-106. Dignity Health paid Reliance Community \$25,901.76 and withheld \$205,116 under a levy made by the Balocating plaintiffs (defendants herein).

The Sisayans have not yet received their discharge.

## **PROCEDURE**

In January 2023, more than two years after the Sisayans filed bankruptcy, Reliance Community and five affiliates filed an action in the Sacramento County Superior Court naming as defendants the Sisayans, the Young at Heart Companies, and a myriad of others. Verified Compl. ¶¶ 93-94, *Reliance Community, Inc. v. Dignity Health*, No. 34-2023-00333390 (Sacramento County Superior Court 2023), Notice of Removal, ECF No. 1. The causes of action included: fraud, civil conspiracy to commit fraudulent transfers, negligent misrepresentation, breach of fiduciary duty, breach of contract, conversion, Business and Professions Code § 17200, and declaratory relief.

Defendants Sisayans and Dan Christopher Matias Robes (one of the Balocating plaintiffs) removed the state court action to this court.

Sisayans answered the complaint and filed a cross-complaint, contending that the filing of the state court action, *Reliance Community, Inc. v. Dignity Health*, No. 34-2023-00333390 (Sacramento County Superior Court 2023), against them violated the stay. 11 U.S.C. § 362(a), (k)(1). Answer and Counterclaim ¶¶ 205-211, ECF No. 19. The counterclaim for violation of the stay is predicated on (1) the counter-defendants' initiation of the state court action; and (2) the facts contained in the verified complaint. *Id.*

Reliance Community Inc. now moves to remand the case to the Sacramento County Superior Court. 28 U.S.C. § 1452(b). Mem. P & As, ECF No. 12. Defendants and Counterclaimants Sisayan oppose remand.

## **JURISDICTION**

### As to the Sisayans

This court has jurisdiction. 28 U.S.C. §§ 1334(a)-(b), 157(b); see also General Order No. 182 of the Eastern District of California. As to the defendants Sisayan, the central questions are: (1) whether the debts of which the plaintiffs complain arose prepetition; and (2) since the debts were unscheduled, whether the plaintiffs had actual knowledge of the bankruptcy, 11 U.S.C. § 523(a)(3) (excepting unscheduled debts from discharge unless the creditor had actual knowledge of the bankruptcy). This court has ruled that a plausible case exists for the existence of a prepetition debt and for actual knowledge of the defendants' bankruptcy by the plaintiffs. Civ. Minutes, ECF No. 121. Jurisdiction over § 523(a)(3) is core, *In re Ford*, 159 B.R. 590, 591 (Bankr. D. Or. 1993), but concurrent. *In re McGhan*, 288 F.3d 1172, 1181 (9th Cir. 2002); *Menk v. LaPaglia (In re Menk)*, 241 B.R. 896, 904 (B.A.P. 9th Cir.1999). Where an action has been filed in state court and where a question exists as to the applicability of 11 U.S.C. § 523(a)(3), removal is proper. 28 U.S.C. § 1452; Fed. R. Bankr. P. 9027; *Siragusa v. Siragusa (In re Siragusa)*, 27 F.3d 406 (9th Cir.1994); *In re Menk*, 241 B.R. 896, 904 (B.A.P. 9th Cir. 1999).

As to the issues in the Sisayans' cross-complaint for violation of the stay, jurisdiction is core. 28 U.S.C. § 157(b)(2)(A), (G), (O); *Johnston Env't. Corp. v. Knight (In re Goodman)*, 991 F.2d 613, 617 (9th Cir. 1993); *In re Moore*, 631 B.R. 764, 777 (Bankr. W.D. Wash. 2021), appeal dismissed, No. 21-05529 RJB, 2021 WL 5824383 (W.D. Wash. Dec. 8, 2021), *aff'd sub nom. Moore v. Flagstar Bank, FSB*, No. 22-35042, 2023 WL 3092303 (9th Cir. Apr. 26, 2023).

### As to all other parties

The jurisdiction of the bankruptcy court is well known.

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.

(b) Except as provided in subsection (e)(2), and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than

the district courts, the district courts shall have original but not exclusive jurisdiction of *all civil proceedings arising under title 11, or arising in or related to cases under title 11.*

28 U.S.C. § 1334(a)-(b).

As this court has said previously:

Bankruptcy jurisdiction extends to cases and to proceedings "arising under," "arising in" or "related to" cases under title 11. 28 U.S.C. § 1334(a), (b). Proceedings "arising under" title 11 "involve a cause of action created or determined by a statutory provision of title 11." *Harris v. Wittman (In re Harris)*, 590 F.3d 730, 737 (9th Cir. 2009). "A civil proceeding 'arises in' a Title 11 case when it is not created or determined by the bankruptcy code, but where it would have no existence outside of a bankruptcy case." *Harris v. Wittman (In re Harris)*, 590 F.3d 730, 737 (9th Cir. 2009) (citation omitted). The test for determining "related to" jurisdiction is "whether the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy." *Fietz v. Great W. Sav. (In re Fietz)*, 852 F.2d 455, 457 (9th Cir. 1988) (emphasis omitted) (citation omitted) (internal quotation marks omitted). "An action is related to bankruptcy if the outcome could alter the debtor's rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankrupt estate." *Id.*

*In re Morrow*, No. 08-13656-A-7, 2018 WL 6584287, at \*1 (Bankr. E.D. Cal. Dec. 11, 2018).

Exclusive of the issues of whether the discharge and a stay violation (which are core), the remainder of the complaint are state common law torts or statutory violations and do not arise under or in a bankruptcy and are not related to cases under bankruptcy. The most that said is that the court might have supplemental jurisdiction over these claims, provided they are based on a common nucleus of facts.

Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

28 U.S.C. § 1367(a).

The Ninth Circuit has recognized the supplemental jurisdiction of bankruptcy courts. *In re Pegasus Gold Corp.*, 394 F.3d 1189, 1195 (9th Cir. 2005). As that court said:

The remaining claims have a much more tangential relationship to the underlying bankruptcy proceeding. Nonetheless, the bankruptcy court could properly exercise supplemental jurisdiction over these claims. Pursuant to 28 U.S.C. § 1367, district courts have "supplemental jurisdiction over all other claims that are so related to claims in the action within [the court's] original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." This circuit has applied § 1367 to bankruptcy claims, even when the subject matter jurisdiction is based on "related to" bankruptcy jurisdiction. See *Sec. Farms v. Int'l Bhd. of Teamsters*, 124 F.3d 999, 1008 n. 5 (9th Cir.1997). Here, the remaining claims involve a "common nucleus of operative facts" and would ordinarily be expected to be resolved in one judicial proceeding, and therefore the bankruptcy court has supplemental jurisdiction over the remaining claims. See *United Mine Workers v. Gibbs*, 383 U.S. 715, 725, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966).

*Id.*

Here, the claims lack the commonality to support supplemental jurisdiction. The only jurisdiction this court has pertains to the plaintiffs and defendant's Sisayan. The questions to be resolved are whether (1) whether the Sisayans' debt, if any, to the plaintiffs was within the plaintiffs' fair contemplation; and (2) whether the plaintiffs had actual notice of the bankruptcy in a timely fashion. This is far different nucleus of fact than that giving rise to liability on the common law torts or statutory violations.

For these reasons the court does not believe it has jurisdiction over the other defendants.

#### Consent

Plaintiffs do not consent to the entry of final orders and judgments. Pltf. Rule 9027(e)(3) Statement, ECF No. 8; defendants do so consent. 28 U.S.C. § 157(b)(3); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932, 1945-46 (2015). Counterclaim 19:25-26, ECF No. 19.

#### **DISCUSSION**

##### Remand

Removal was accomplished under 28 U.S.C. § 1452(a).

This court has discretion to remand the matter to state court. 28  
U.S.C. § 1452(b).

The factors that the court will consider in determining whether to remand include (see *In re Dow Corning*, 86 F.3d 482, 489-495 (6th Cir. 1996)): [1] [w]hether remand would prevent duplication or uneconomical use of judicial resources; [2] [t]he effect of the remand on the administration of the bankruptcy estate; [3] [w]hether the case involves questions of state law better addressed by a state court; [4] [c]omity and judicial economy; [5] [6]rejudice to involuntarily removed parties; [6] [t]he effect of bifurcating the action, including whether remand will increase or decrease possibility of inconsistent results; [7] [t]he predominance of state law issues and non-debtor parties; [and] [8] [t]he expertise of the court in which the action originated.

Wagstaffe Prac Guide: *Fed Civil Proc Before Trial* § 8-VII (2023).

Moreover, 28 U.S.C. § 1452(b) authorizes this court to remand less than all of the entire complaint. *In re Drauschak*, 481 B.R. 330, 340 (Bankr. E.D. Pa. 2012) ("Theoretically, a partial remand is permissible. See, e.g., *DVI Financial Services Inc. v. Cardiovascular Laboratories, Inc.*, 2004 WL 727105, at \*2 (Bankr.E.D.Pa. Mar. 18, 2004) ("[A] bankruptcy court has the equitable power to remand some or all of the claims removed under § 1452(b).")"); see also, *In re RBGSC Investment Corp.*, 253 B.R. 369 (E.D.Pa.2000) (overruled on other grounds).

Even if the court had jurisdiction over the other defendants, this court would remand the case to state court, exclusive of the Sisayans and specific issues. And that is the case for several reasons. First, state law issues predominate. Second, prejudice to involuntary parties exists. For example, this court cannot conduct jury trials, absent the consent of all parties. Third, questions of comity for state courts and their expertise on these issues weighs heavily in favor of remanding. Fourth, and finally, the court can effectively bifurcate the issues that this court should hear. For these reasons, remand, of some of the issue, e.g., those arising against other defendants, remand is appropriate.

But certain parties, e.g., defendants Sisyan, and certain claims, are properly before this court and should remain here. The court intends to bifurcate and retain the following: (1) as to the complaint: (A) all causes of action against the Sisayans; (B) the second cause of action (civil conspiracy for fraudulent transfer-now dismissed); and (2) as to the cross-complaint by the Sisayans, all causes of action. As to the other parties and causes of action, the case will be remanded.

#### Attorneys' Fees

In some instances, attorneys' fees may be awarded for the wrongful removal.

Section 1447(c) provides that a remand order "may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." Since the use of the verb "may" connotes discretion, the decision to order an award of attorney fees is within the discretion of the court. *Moore v. Permanente Med. Group, Inc.*, 981 F.2d 443, 447 (9th Cir.1992); *Daleske v. Fairfield Communities, Inc.*, 17 F.3d 321, 325 (10th Cir.1994); *Morgan Guar. Trust Co. v. Republic of Palau*, 971 F.2d 917, 923 (2d Cir.1992).

Bad faith need not be shown before making a fee award under § 1447(c). *Moore*, 981 F.2d at 446-47; *Daleske*, 17 F.3d at 324; *Morgan Guar. Trust*, 971 F.2d at 923.

The nature of the conduct of the removing defendants is nevertheless relevant to the exercise of discretion. *Moore*, 981 F.2d at 447; *Daleske*, 17 F.3d at 323; *Miranti v. Lee*, 3 F.3d 925, 928 (5th Cir.1993) ("the propriety of the defendant's removal continues to be central in determining whether to impose fees").

*In re Hotel Mt. Lassen, Inc.*, 207 B.R. 935, 943 (Bankr. E.D. Cal. 1997).

Attorney's fees are not warranted here. It is beyond question that the Sisayans had the right to remove a dispute about the applicability of 11 U.S.C. § 523(a)(3) to this court. *Siragusa v. Siragusa (In re Siragusa)*, 27 F.3d 406 (9th Cir.1994); *In re Menk*, 241 B.R. 896, 904 (B.A.P. 9th Cir. 1999). Here, the question of whether the discharge, once it issues, will apply to the plaintiffs is patent and the defendants Sisayan have plead a plausible claim for the existence of a prepetition debt based on the fair contemplation test and on a stay violation. These are both fair game for this court.

The motion will be granted and denied.

## **CONCLUSION**

For each of these reasons, the motion will be granted and denied as follows:

IT IS HEREBY ORDERED that the motion is denied as to (1) any cause of action against the defendants Lillian Meyer Trapses Sisayan and Isagani Mallari Sisayan; (2) as to the complaint, ECF No 1: the second cause of action (conspiracy for fraudulent transfer); and (3) as to the counterclaim, ECF No. 19 (the entire counterclaim--the stay violation cause of action);

IT IS FURTHER ORDERED that the motion is otherwise granted and, except as provided herein, the matter is remanded to state court;

IT IS FURTHER ORDERED that any request for attorneys' fees is denied; and

IT IS FURTHER ORDERED that the denial of the remand is without prejudice to renewal of the motion or sua sponte as to the Sisayans for the causes of action in the complaint, ECF No. 1, if and when, the court determines that: (A) the cause(s) of action arose post-petition; or (B) that the defendants, or some of them, did not have actual knowledge of the bankruptcy in a timely manner.

9. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2031](#)     [CAE-1](#)

STATUS CONFERENCE RE: AMENDED NOTICE OF REMOVAL  
6-1-2023     [\[19\]](#)

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
MICHAEL HARRINGTON/ATTY. FOR PL.

#### **Final Ruling**

This adversary proceeding consolidated with adversary proceeding number 23-2027, the status conference in this adversary proceeding is concluded. A civil minute order shall issue.

10. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[23-2031](#)     [FEC-1](#)

ORDER TO SHOW CAUSE  
6-9-2023     [\[28\]](#)

RELIANCE COMMUNITY, INC. ET AL  
V. DIGNITY HEALTH ET AL  
TRUSTEE NON-OPPOSITION

#### **Final Ruling**

The matter has been resolved by order of this court; the matter is dropped from calendar.

11. [20-23726](#)-A-11     **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT**  
[22-2060](#)     [GG-4](#)

MOTION FOR APPEARANCE AT TRIAL, OR ALTERNATIVELY,  
CROSS-EXAMINATION BY ZOOMGOV O.S.T.  
7-28-2023     [[66](#)]

GOLDEN V. KIDZ 4 CHRIST EARLY  
LEARNING CENTERS, INC.  
DAVID GOODRICH/ATTY. FOR MV.

### **Final Ruling**

The motion is resolved by stipulation, which the court now approves. Golden Goodrich shall upload an order consistent with the terms of the stipulation. The pretrial order, ECF No. 41 is modified accordingly.