Docket #0150 Date Filed: 9/18/2023

United States Courts
Southern District of Texas
FILED

SEP 18 2023

Nathan Ochsner, Clerk of Court

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re: Tehum Care Services, Inc Debtor.	Case No: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati Plaintiff, Vs. Sarah Tirschwell, et al., Defendants.	Adv. Pro. No. 23-03072 (CML)

REPLY TO ECF 102, 133,134 ; DECLARATION; AMENDED PROOF OF SERVICE

¶ Plaintiff moves this court for an order directing default be entered and judgment by default entered and as grounds states:

Table Of Contents

Cases 2
Table Of Exhibits 3
Summary Of The Reply 3
What Ecf 102, 133 And 134 Say 3
Statement Of Relevant Facts 4
The Argument By Coverys That The Clerk Of This Court Somehow Singled Out Coverys And Issued The Summons For All Defendants, But Coverys, Is Frivolous At Best 5
The Returns Should Be Amended 5

2390086230920000000000001

Counsel Are Confused Because Actual Receipt Of Summons, Is Not Relevant, Under Br 7004 6

As These Defendants Have Actual Notice Jurisdiction Is Proper 6

As Defendants Have Not Set Forth A Meritorious Defense Default And Default Judgment Is Proper 6

Conclusion 7

Declaration Of Anant Kumar Tripati 8

Cases

Addison v Reitman Blacktop Inc.; 272 FRD 72 (ED NY 2010) ---------- 6

Flores v Safadi (In re Safadi) 2019 Bankr. Lexis. 1979 (Br. D. Ariz. 2001) ---------- 5

Hennings v Barian, 822 F2d 688 7th Cir. 1987) ---------- 9

In re American Precision Vibrator Co., 863 F.2d 428 (5th Cir. 1989 ---------- 4

In re Daboul, 1987 Bankr. Lexis. 2155 (D. Mass. 1987) ---------- 5

In re J. B. Lovell Corp, 1988 Bankr. Lexis. 1048 (ND Ga. 1988) ---------- 5

In re Knight, 833 F2d 1515 (11th Cir. 1987) ---------- 6

In re Longoria, 2009 Bankr. Lexis. 64 (Bankr. WD Tex. 2009)---------- 5

Jeffreys v Extended, 784 F Supp 146 (D Del. 1992)---------- 9

PNCEF LLC v Hendrixs Bldg. Supply LLC 740 F Supp2d 1287 (SD Ala. 2010) ------ 6

Price v America's Servicing Co., (In re Price) 2007 Bankr. Lexis 36662 (Bankr. ED Ark. 2007) Adversary 2008 Bankr. Lexis 1590 (Bankr. ED Ark. 2008)---------- 6

Rebein v Adkins, (In re Adkins) 2006 Bankr. Lexis. 707 (Bankr Ill 2006)---------- 5

Sedima SPRL v Index Co, 473 US 475 (1985)---------- 9

Stephenson v El-Batrawi, 524 F3d 907(8th Cir. 2008)---------- 6

Uranga v Davis, 893 F.3d 282, 286 (5th Cir. 2018) ----------3, 7

Vick v Wong, 263 FRD 325 (ED Va. 2009) ----------6

TABLE OF EXHIBITS

Exhibits A Prison Mail Log showing filing of Motion to recall.

Confirmation that Corizon did not serve document filed.

Court Order

Docket Sheet

Exhibits B Prison Log showing payment of filing fees and receipt for mailing.

Exhibits C Prison Log showing receipt of mail

SUMMARY OF THE REPLY

¶It is sheer nonsense for Coverys Specialty Insurance Company to accuse the Clerk of this Court for not issuing the summons, for Coverys but issuing these summons for all the other liability insurance companies.

¶By clear and ocnvincing evidence attached, I have shown that summons were issued by the Clerk of this Court on May 19, 2023 and served by mail in compliance with BR 7004.

¶ As a matter of litigation strategy, in bad faith, intentionally and willfully, Defendants have failed to respond.

WHAT ECF 102, 133 and 134 SAY

¶ ECF 102 states a docket notation on May 19, 2023 shows summons were issued, but a second notation appears on June 28, 2023 that no summons were issued. (pp 2 para 3-5). It states that there was no service.

¶ ECF 133 and 134 state that there is no proof of service.

STATEMENT OF RELEVANT FACTS

¶ Uranga v Davis, 893 F.3d 282, 286 (5th Cir. 2018) states that prison logs are evidence that a prisoner delivered documents to prison authorities and that the documents were either filed in court or served, because prisoners are not free to walk to a post office. It further states the date of delivery is the date of filing.

¶ Exhibit A shows that February 16, 2023 I filed a motion to recall the mandate docketed February 21, 2023. Exhibit A further shows that counsel for the Debtor did not serve me a copy of their suggestion for bankruptcy ~~fled~~ Filed in the Third Circuit on February 17, 2023. It reads " There is no incoming legal mail from Meyer Unkovic & [1]Scott Pittsburgh during the period 2/17/23 to 2/28/23". The Exhibit shows that the Third Circuit on March 13, 2023 declined to rule on my motion due to this bankruptcy. A copy of the docket sheet shows that Defendants did not ask the Third Circuit to decide the claims against them, except the Debtor. (Dec @ 1)

¶ Exhibit B is a copy of the prison banking log and it shows that I paid the filing fees to file this adversary on May 22, 2023.

¶I received on May 10, 2023 and May 30, 2023 the summons issued by the Clerk of this court. I served these upon the agent for service of process as set forth in my Declaration at 6. See Declaration at 4-5

---

1 ~~The~~ The first represented Corizon in Pittsburgh.

THE ARGUMENT BY COVERYS THAT THE CLERK OF THIS COURT SOMEHOW SINGLED OUT COVERYS AND ISSUED THE SUMMONS FOR ALL DEFENDANTS, BUT COVERYS, IS FRIVOLOUS AT BEST

¶ Coverys states that according to the docket sheet, on May 19, 2023 the Clerk has a notation of issuing summons , but there is a subsequent notation on June 28,2023 that the summons were not issued (pp 2, para 3-5) is frivolous. (Dec @ 4-6)

¶ The Clerk issued summons for Evanston Insurance Company; Zurich American Insurance ; American Zurich Insurance Company ;Columbia Casualty Company ;Scottsdale Insurance Company ; Coverys Specialty Insurance Company ; Hartford Casualty Insurance Company ; on May 19, 2023. There was no reason for the Clerk to single out Coverys. (Dec @ 4-6)

¶ The Clerk should be directed to correct the clerical error. In re American Precision Vibrator Co., 863 F.2d 428 (5th Cir. 1989)(Clerk may correct clerical error)[2]

THE RETURNS SHOULD BE AMENDED

¶ Returns may be amended Johnston v May (In re Gulf States Petroleum Corp) 2005 Bankr. Lexis 3062 (Bankr. WD La. 2005)

¶ The Declaration at 4-6 shows that these Defendants have been served by mail and were served on June 1, 2023.

---

2 I have contacted the Clerk of the Court and asked the Clerk to review the paper copies of the summons. I believe these summons have been misfiled, because the Clerk has my request to reissue summons and these returns have possibly been filed with the request to reissue, pending order of this court o reissue.

COUNSEL ARE CONFUSED BECAUSE ACTUAL RECEIPT OF SUMMONS, IS NOT RELEVANT, UNDER BR 7004

¶ Attached Exhibit B is proof that the State of Arizona did mail the summons and complaint to Defendants by First Class mail. This is mandated by prison policy Department Order 902. 11.6.3 which reads

- " Send legal mail as first class mail ..." Uranga v Davis, 893 F.3d 282, 286 (5th Cir. 2018)

¶ Under BR 4, actual receipt is not required Flores v Safadi (In re Safadi) 2019 Bankr. Lexis. 1979 (Br. D. Ariz. 2001) Rebein v Adkins, (In re Adkins) 2006 Bankr. Lexis. 707 (Bankr Ill 2006)

¶ As the prison bank statement is evidence that the summons were sent by First Class mail, it is irrelevant that Defendants contend they did not receive these.

AS THESE DEFENDANTS HAVE ACTUAL NOTICE JURISDICTION IS PROPER

¶ As these Defendants have actual notice, there is no prejudice In re Daboul, 1987 Bankr. Lexis. 2155 (D. Mass. 1987) In re Longoria, 2009 Bankr. Lexis. 64 (Bankr. WD Tex. 2009)

AS DEFENDANTS HAVE NOT SET FORTH A MERITORIOUS DEFENSE DEFAULT AND DEFAULT JUDGMENT IS PROPER

¶ Relief from default requires a showing that there is a meritorious defense and Defendants have not made that showing. In re J. B. Lovell Corp, 1988 Bankr. Lexis. 1048 (ND Ga. 1988)

¶ Their responses shows that they are evading service, going to extremes, even trying the take advantage of clerical error. Addison v Reitman Blacktop Inc., 272 FRD 72 (ED NY 2010)

¶ Their BR7004 defense is frivolous as it clear they have been properly served in compliance with BR 7004. Stephenson v El-Batrawi, 524 F3d 907(8th Cir. 2008)

¶ Defendants have proffered no meritorious defense to the allegations Vick v Wong, 263 FRD 325 (ED Va. 2009)

¶ As there is no good reason not to respond, default is proper. In re Knight, 833 F2d 1515 (11th Cir. 1987)

¶ Because service in compliance with BR 7004 has been accomplished, Defendants intentional refusal to respond, warrants default and judgment by default. Price v America's Servicing Co., (In re Price) 2007 Bankr. Lexis 36662 (Bankr. ED Ark. 2007) Adversary 2008 Bankr. Lexis 1590 (Bankr. ED Ark. 2008)

CONCLUSION

¶ When as in this case, Defendants are stalling process, default and judgment by default should be ordered. PNCEF LLC v Hendrixs Bldg. Supply LLC 740 F Supp2d 1287 (SD Ala. 2010)

Respectfully submitted,

Anant Kumar Tripati

DECLARATION OF ANANT KUMAR TRIPATI

I, Anant Kumar Tripati declare under the penalty of perjury these facts are true and correct and I am competent to so testify:

1. I am the Plaintiff in this matter.
2. Exhibits A show that I filed my motion to Recall The Mandate in the Third Circuit on February 16, 2023 and that I did not receive from counsel for Corizon the suggestion of bankruptcy they filed. It also shows that on March 13, 2023 the Court refused to consider the motion because of the suggestion of bankruptcy. The court docket sheet attached shows that Defendants did not ask the court to consider the spoliation claims as to them.
3. Exhibit B is an inmate banking statement given to me by the state prison system. This shows that I paid the filing fees and to file this adversary.
4. The Clerk of this Court issued summons on May 19, 2023.
5. The attached Exhibit C shows I received these on May 30, 2023.
6. These Defendants were served by mail the summons and complaint. Exhibits B is the banking statement issued to me by the prison system. This statement shows that these Defendants were served by first class mail postage prepaid.

- Agent for service of process Becken Petty O'Keefe, a Delaware Corporation was served by first class mail on June 1, 2023 at 131 South Dearborn St # 2800,

Chicago, IL 60603. They did not respond. I understand they have entered appearance, but, in spite of repeated requests, they have not mailed me any document(s) they may have fled.

- Agent for service of process Weber Gallagher Simpson Stapleton Fires & Newby LLP; Attorney 2 Gateway Ctr Pittsburgh PA 15222 was served by first class mail June 1, 2023 . They did not respond. I understand they have entered appearance, but, in spite of repeated requests, they have not mailed me any document(s) they may have fled.
- Agent for service of process Evanston Insurance Company, was served by first class mail. June 1, 2023 at 10275 W Higgins Rd # 700, Rosemont, IL 60018-6408 is liability Insurer for Wexford. They did not respond.
- Agent for service of process Zurich American Insurance 1299 Zurich Way, Schaumburg, IL 60196-1056 Company was served by first class mail June 1, 2023 and they have not responded.
- Agent for service of process American Zurich Insurance Company P.O. Box 968046 Schaumburg, IL 60196-8046 was served by first class mail June 1, 2023 and they have not responded.
- Agent for service of process Columbia Casualty Company 151 N Franklin St, Chicago IL 60606-1915 was served by first class mail June 1, 2023 and they have not responded.

- Agent for service of process Scottsdale Insurance Company 8877 N Gainey Center Dr. Scottsdale, AZ 85258 was served by first class mail June 1, 2023 and they have not responded.
- Summons were issued along with all these other Defendants for Coverys Specialty Insurance Company. Agent for service of process Coverys Specialty Insurance Company 1 Financial Center 13th Floor, Boston MA 02111 was served by first class mail June 1, 2023 and they have not responded.
- Agent for service of process Hartford Casualty Insurance Company One Hartford Plaza, Hartford, CT 06155 was served by first class mail June 1, 2023 and they have not responded.

7. These Defendants are neither minors nor incompetents and are not in military duty.

PROOF OF SERVICE

The Plaintiff hereby certifies that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all parties requesting notice/ all parties who have entered appearance. ~~And by mail to~~

State of ARIZONA, County of YUMA

This Instrument was acknowledged before me this 11 day of September, 2023

by Anant Trivedi

A. Lugo, Notary Public

A. LUGO
Notary Public - Arizona
YUMA COUNTY
Commission # 581596
Expires May 1, 2024

EXHIBIT A

Arizona Department of Corrections Rehabilitation and Reentry

Legal Mail Log

Legal correspondence shall be opened and inspected for contraband only in the presence of the inmate (As outlined in Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR), Department Order 914, Inmate Mail). If the inmate is not in the unit return the unopened Legal Mail to Complex Mail Room.

UNIT	DATE *(mm/dd/yyyy)*
CIBOLA	02/16/2023

All metal and other contraband have been removed prior to issuing to inmate.

Inmate Name *(Print name)*	ADCRR Number	Housing	Date *(mm/dd/yy)*	Signature	Received From / Mail To	Tracking Number	Contents	Outgoing Postage	Officer/Badge Number
TRIPATI, A	102081	4D15L	02/16/23		U.S Court of Appeals 601 Maricet St #21400 Philadelphia, CA 19106				

NOTE: Shift Commander shall sign and date upon completion of all Legal/Certified Mail distribution.

SHIFT COMMANDER NAME *(Last, First M.I.) (Please print)*	SIGNATURE	DATE *(mm/dd/yyyy)*
Cpl. V. Servantiz	Cpl. V. S 1289	2-16-23

2-16-23

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 13 of 37

Arizona Department of Corrections
Rehabilitation and Reentry

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
TRUPATI Anant	102081	409	9/9/23

TO	LOCATION
MAIL Room	

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

Can You PLEASE CONFIRM You DID NOT Receive Any MAIL FROM MEYER UNKOVIC & SCOTT Pittsburgh.

During 2/17/23 AND 2/28/23.

09109/2023

In response to your inmate letter, I Call Mvela,D #10288 reviewed the Incoming legal mail Log.

There is no incoming Legal mail from Meyer unkovic & Scott Pittsburgh during the period of 2/17/23 to 2/28/23.

Thankyou! D.Mvela #10288

INMATE SIGNATURE	DATE (mm/dd/yyyy)
	9/9/23

Have you addressed this with Department staff? ☐ Yes ☐ No

If yes, give the staff member's name and the date you addressed with them:

(Staff Member's Name) (Please print) _____ (Date addressed) _____

Note: Using profanity, insulting, obscene, or abusive language and/or addressing staff with inappropriate names or making inappropriate remarks in this written correspondence (or verbal communication to staff concerning this correspondence), will not be tolerated and may result in no response to the correspondence and/or discipline pursuant to Department Order 803, Inmate Disciplinary Procedure.

Distribution: Original – Master File
Copy - Inmate

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 22-1861

Tripati v. Wexford Health Sources Inc.

To: Clerk

1) Suggestion of Bankruptcy received from Appellee Corizon Inc.

2) Motion by Appellant titled FRAP 41(d)(1) Application and Request for Other Relief

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In light of the suggestion of bankruptcy filed by Appellee Corizon Inc., indicating the defendant in the lower court filed a petition for relief under the Bankruptcy Code, no action will be taken on Appellant's motion. See 11 U.S.C. § 362 (actions against the debtor may not proceed during the pendency of the bankruptcy).

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: March 13, 2023
CJG/cc: Anant Kumar Tripati
Christopher J. Watson, Esq.
Joseph J. Bosick, Esq.
Holly M. Whalen, Esq.
Jason M. Yarbrough, Esq.
Rita Bustos, Esq.
Alyssa R. Illsley, Esq.
Kevin L. Nguyen, Esq.
Cassidy L. Neal, Esq.

10/18/2022	☐ 61 90 pg, 2.61 MB	PRO SE REPLY BRIEF on behalf of Appellant Anant Kumar Tripati. Certificate of Service dated 10/12/2022 by US mail. (IDR) [Entered: 10/18/2022 10:45 AM]
10/31/2022	☐ 63 1 pg, 92.04 KB	ORDER (Clerk) The motion for leave to file overlength reply brief is referred to the merits panel. (CJG) [Entered: 10/31/2022 04:42 PM]
11/28/2022	☐ 64 1 pg, 124.36 KB	CALENDARED for Monday, 12/12/2022. (AR) [Entered: 11/28/2022 05:07 PM]
12/12/2022	☐ 65 1 pg, 50.33 KB	SUBMITTED (Pro Se) on Monday, December 12, 2022. Panel: AMBRO, KRAUSE and SCIRICA, Circuit Judges. (AR) [Entered: 12/12/2022 08:07 AM]
12/15/2022	☐ 66 6 pg, 206.1 KB	NOT PRECEDENTIAL PER CURIAM OPINION Coram: AMBRO, KRAUSE and SCIRICA, Circuit Judges. Total Pages: 6. Tripati's motion for permission to file his overlength reply brief is granted. (SLC) [Entered: 12/15/2022 07:19 AM]
12/15/2022	☐ 67 5 pg, 188.43 KB	JUDGMENT, Affirmed. Costs taxed against Appellant. (SLC) [Entered: 12/15/2022 07:25 AM]
12/28/2022	☐ 68 2 pg, 172.96 KB	ECF FILER: BILL OF COSTS filed on behalf of Appellee Kelly Joan Morrissey. Certificate of Service dated 12/28/2022. Service made by US mail, ECF. [22-1861] (KLN) [Entered: 12/28/2022 02:12 PM]
12/29/2022	☐ 69 1 pg, 87.65 KB	REVIEWED & ADJUSTED Bill of Costs filed. After review, costs will be taxed in the amount of $39.33. (CJG) [Entered: 12/29/2022 08:41 AM]
01/03/2023	☐ 70 3 pg, 372.59 KB	MOTION filed by Appellant Anant Kumar Tripati for Extension of Time to File Petition for Rehearing. Response due on 01/17/2023. Certificate of Service dated 01/04/2023. Service made by ECF. (SLC) [Entered: 01/04/2023 11:04 AM]
01/05/2023	☐ 71 1 pg, 96.62 KB	ORDER (AMBRO, Circuit Judge) granting motion for extension of time to file petition for rehearing filed by Appellant Anant Kumar Tripati to file a petition for rehearing until February 15, 2023. (SLC) [Entered: 01/05/2023 10:56 AM]
01/09/2023	☐ 72 35 pg, 8.84 MB	PETITION filed by Appellant Anant Kumar Tripati for Rehearing En Banc and before Original Panel. Clerk's Office ensured service on 01/11/2023. (SLC) [Entered: 01/11/2023 08:18 AM]
02/01/2023	☐ 73 2 pg, 100.26 KB	ORDER (CHAGARES, Chief Judge, AMBRO, JORDAN, HARDIMAN, GREENAWAY JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN and SCIRICA*, Circuit Judges) denying Petition for panel and for en banc rehearing filed by Appellant Anant Kumar Tripati. Ambro, Authoring Judge. (*Judge Scirica's vote is limited to panel rehearing only.) (CJG) [Entered: 02/01/2023 01:43 PM]
02/09/2023	☐ 74 10 pg, 354.67 KB	MANDATE ISSUED. (SLC) [Entered: 02/09/2023 08:34 AM]
02/13/2023	☐ 75 4 pg, 670.56 KB	MOTION filed by Appellant Anant Kumar Tripati to Abate Time to File for Certiorari. (SLC) [Entered: 02/14/2023 08:48 AM]
02/13/2023	☐ 76 6 pg, 891.57 KB	MOTION filed by Appellant Anant Kumar Tripati for a Procedural Order as to Certiorari. (SLC) [Entered: 02/14/2023 08:49 AM]
02/17/2023	☐ 77 1 pg, 63.98 KB	ORDER (Clerk) No action will be taken on Appellant's motions as it noted that the case is closed. As to the motion for Procedural order Ordinarily, the Court does not intervene in the day-to-day operations of a prison. Appellantshould contact prison administrators with your concerns and for information on prison grievance procedures. Any inquiry regarding a writ for certiorari should be directed to the United States Supreme Court at the following address: Public Information Center, One First Street, NE, Washington, D.C. 20543-001 (SB) [Entered: 02/17/2023 10:01 AM]
02/17/2023	☐ 78 4 pg, 254.92 KB	ECF FILER: SUGGESTION OF BANKRUPTCY received from Appellee Corizon Inc. Certificate of Service dated 02/17/2023. Service made by US mail, ECF. [22-1861] (JMY) [Entered: 02/17/2023 02:24 PM]
02/21/2023	☐ 79 110 pg, 2.16 MB	MOTION filed by Appellant Anant Kumar Tripati titled FRAP 41(d)(1) Application and Request for Other Relief. Response due on 03/06/2023. Clerk's Office made service on 02/23/2023. Service made by ECF.– [Edited 03/13/2023 by CJG] (SLC) [Entered: 02/23/2023 10:38 AM]
03/13/2023	☐ 80 1 pg, 64.82 KB	ORDER (Clerk) In light of the suggestion of bankruptcy filed by Appellee Corizon Inc., indicating the defendant in the lower court filed a petition for relief under the Bankruptcy Code, no action will be taken on Appellant's motion titled FRAP 41(d)(1) application and request for other relief . See 11 U.S.C. Section: 362 (actions against the debtor may not proceed during the pendency of the bankruptcy). (CJG) [Entered: 03/13/2023 02:02 PM]
03/13/2023	☐ 81 54 pg, 2.72 MB	MOTION filed by Appellant Anant Kumar Tripati for Leave to File Completed Petition in Support of Pending Motion to Stay and Recall. (CJG) [Entered: 03/17/2023 10:18 AM]
03/21/2023	☐ 82 1 pg, 63.64 KB	ORDER (Clerk) The motion for leave to file completed petition in support of motion to stay and recall was received by the Court on March 13, 2023, after a Clerk Order taking no action on Appellant's motion to

EXHIBIT B

Inmate Account Summary

Transactions from 05/01/2023 to 06/30/2023

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 18 of 87

Inmate

Name:	TRIPATI, ANANT K
ADC #:	102081
ADC #:	102081
DOB:	1/16/1954
Status:	Active
Admitted:	12/20/1993
Released:	N/A

Funds

Account

Spendable:

INMATE DEBT:

DDA:

Wages:

Retention:

DDA L:

Classifications

Religious Affiliation : Buddhist

Religious Diet : none

Phase : Phase 3

Security Level : 3

Loss of Privilege : N

Transactions

Inmate Account Summary

Transactions from 05/01/2023 to 06/30/2023

5/26/2023 1:37:38 AM	94 XFR WAGES TO SPND L2	Deduct: from 'Wages' into 'Spendable'	Wages	($7.84)
5/26/2023 1:37:38 AM	54 TRANSITION FEE LT2	Deduct: from 'Wages' into 'Common Checks - Deductions and Fees'	Wages	($0.56)
5/26/2023 1:37:38 AM	13 DDA XFR G	Deduct: from 'Wages' into 'DDA'	DDA	$2.80
5/26/2023 1:37:38 AM	13 DDA XFR G	Deduct: from 'Wages' into 'DDA'	Wages	($2.80)
5/26/2023 1:37:37 AM	15 PYRL WI L2 TR	WIPP Payroll LT $2 Transition	Wages	$11.20
5/23/2023 1:15:32 PM	46 COPY NON LGL	Y09 354 NON-LEGAL COPIES 05/23/23	Spendable	($3.80)
5/22/2023 10:17:50 AM	22 CHECK DISBURSEMENT	YUMA Y09 601 U.S. BANKRUPTCY COURT/FEE	Spendable	($350.00)
5/20/2023 12:39:50 AM	36 PMT UTILITY FEE	Pay: 5/20/2023 12:39:50 AM - 36 UTILITY FEE - Charge for Utilities	Spendable	($2.00)
5/20/2023 12:39:50 AM	36 PMT UTILITY FEE	Pay: 5/20/2023 12:39:50 AM - 36 UTILITY FEE - Charge for Utilities	INMATE DEBT	($2.00)
5/20/2023 12:39:50 AM	36 UTILITY FEE	Charge for Utilities	INMATE DEBT	$2.00
5/19/2023 7:46:42 AM	39 PMT POST LGL	Pay: 5/19/2023 9:46:42 AM - 39 LEGAL POSTAGE - Y09 345 Legal Postage 5/19/23	Spendable	($1.74)
5/19/2023 7:46:42 AM	39 PMT POST LGL	Pay: 5/19/2023 9:46:42 AM - 39 LEGAL POSTAGE - Y09 345 Legal Postage 5/19/23	INMATE DEBT	($1.74)
5/19/2023 7:46:42 AM	39 LEGAL POSTAGE	Y09 345 Legal Postage 5/19/23	INMATE DEBT	$1.74
5/17/2023 1:52:14 PM	22 CHECK DISBURSEMENT	VOID: STOP PAYMENT CK#500345543 REQUEST BY INMATE WRONG AMOUNT	Spendable	$300.00
5/16/2023 8:37:59 AM	38 PMT COPY LGL	Pay: 5/16/2023 8:37:59 AM - 38 LEGAL COPIES - Y09 333 LEGAL COPIES 05/15/23	Spendable	($1.75)
5/16/2023 8:37:59 AM	38 PMT COPY LGL	Pay: 5/16/2023 8:37:59 AM - 38 LEGAL COPIES - Y09 333 LEGAL COPIES 05/15/23	INMATE DEBT	($1.75)

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 19 of 87

Arizona Department of Corrections
Rehabilitation and Reentry

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
TRIPATI AMAN	102081	YUMA	9/11/23

TO	LOCATION
CM	

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

Can You Please Confirm that On (June 1, 2023) I mailed - First Class - Packages to - Postage Prepaid

(9/11/23 sent) Agent for Service of Process:
(9/11/23 sent) Evanston Insurance Company
(9/11/23 sent) Lexington Insurance Company
(9/11/23 sent) Zurich American Insurance Co
(9/11/23 sent) American Zurich Insurance Co
(9/11/23 sent) Columbia Casualty Co
(9/11/23 sent) Scottsdale Ins Co;
(9/11/23 sent) Covegys Specialty Ins Co
(9/11/23 sent) Hartford Casualty Ins Co

Thanks (This was sent out on 9/11/23)

INMATE SIGNATURE	DATE (mm/dd/yyyy)
	9/11/23

Have you addressed this with Department staff? ☐ Yes ☐ No

If yes, give the staff member's name and the date you addressed with them:

Candlish (Staff Member's Name) (Please print) — 9/11/23 (Date addressed)

Note: Using profanity, insulting, obscene, or abusive language and/or addressing staff with inappropriate names or making inappropriate remarks in this written correspondence (or verbal communication to staff concerning this correspondence), will not be tolerated and may result in no response to the correspondence and/or discipline pursuant to Department Order 803, Inmate Disciplinary Procedure.

Distribution: Original - Master File
Copy - Inmate

EXHIBIT C

ARI DEPT OF CORRECTIONS
INC 3 LEGAL MAIL

LEGAL CORRESPONDENCE SHALL BE OPENED AND INSPE FOR CONTRABAND
ONLY IN THE PRESENCE OF TH (ADC IMP 302.4).
IF INMATE IS NOT ON UNIT, RETURN LETTER UNOPENED TO LEX MAIL ROOM

DATE	INMATE NAME	ADC #	BED #	COMMENTS/TRACKING	SIGNATURE	DATE	SENDER
05/30/23	TRIPATI	102081	Y09/4D15			5/30	CLERK US DIST COURT SOUTHERN DIST OF TEXAS/PO BOX 61010/HOUSTON TX 77208

SUPERVISOR SIGN: _____ DATE: 5/30/23 STAFF SIGN: _____ DATE: 5/30/23

CIBOLA UNIT

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 22 of 87

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

In Re: Tehum Care Services, Inc Debtor.	Case No: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati Plaintiff, vs. Sarah Tirschwell, et al., Defendant.	Adv. Pro. No. 23-03072 (CML)

OMNIBUS REPLY TO ECF 118, 121, 125 AND LEXINGTON

¶Plaintiff submits the following omnibus reply and asks that leave to amend be granted.[1]

TABLE OF CONTENTS

Table Of Contents 1

Introduction 8

Conduct Of The Liability Insurers Satisfies The But For Causation Because Had They Not Failed To Comply With Their Standards, There Would Have Been No Violations. The Failure Of The Liability Insurers To Follow Their Own Policies And Procedures Caused The Injury 8

The Complaint Shows The Rico Enterprise Is Separate And Distinct From The Defendants 8

1 The other Defendants have not responded to the motion to amend except those above.

Statementof Relevant Facts 13

These Claims Accrued When The Circuit Court Declined To Decide The Claims As To All Defendants 14

The United States Court Of Appeals For The Third Circuit Screened The Spoliation Claims 15

Emails Used To Perpetrate The Fraud Is Very Specific 15

What The Defendants State 16

The Complaint Sets Forth A Continuous Course Of Conduct By Defendants To Remove And Deliver To Them Evidence Adverse To Them Through Ulibarri 17

ECF 96 Alleges As Defendants And The Debtor Are Trusted By Each Other, Have The Same Mode Of Operation, Husky International Electronics, Inc. V. Ritz, Authorizes Relief 17

This Court Has Related To Jurisdiction 18

Under The Injury Discovery Rule These Claims Accrued When The Bankruptcy Was Filed 18

Defendants Conduct Are Inextricably Entwined With The Debtor 18

The Complaint Alleges Interstate Commerce Link 19

The Complaint Shows Ankura Consulting Aided The Debtor In Submitting False Schedules And Reports 19

Corizon Has Had A History Of Defrauding Prisoners And Government Entities Nationwide, And Is At It Again Before This Judge, Through Texas Divisional Measures Using Its Corporate Structure As A Mere Instrumentality 20

The Complaint Sets Forth How The Scheme To Fraud Designed By Corizon Worked 20

The Rico Predicate Acts Are Very Specific In The Complaint 21

A. The Complaint Sets Forth Communications Between The Debtor And Its Parent As Well As Subsidaries To Perpetate The Fraud 21

B. The Complaint Shows An Agreement To Transfer Bulk Of The Assets 21

C. M2 Holdco Llc, M2 Loanco Llc; M2 Equityco LLC Agreed To And Made Sham Loans By Money Laundering Assets Of The Debtor 22

D. The Complaint Is Very Specific As To Acts Committed By Quintairos Prieto Wood & Boyer; Nichole Rowey; Joseph Scott Conlon; Renaud Cook Drury Mesaros Pa Setting Forth Dates, Emails Used 22

E. The Complaint Is Very Specific As To Acts Committed By Ulibarri, Erwin, Bohuszewicz Setting Forth Dates, Emails Used 22

F. The Complaint Is Very Specific As To Acts Committed By Centurion Of Arizona; Sarah L Barnes; Broening Oberg Woods & Wilson Pc; Michael E. Gottfried Setting Forth Dates, Emails Used 22

G. The Complaint Is Very Specific As To Acts Committed By Carter Ulibarri, Boschuwicz, Wexford, Centurion, Corizon Setting Forth Dates, Emails Used 23

H. The Complaint Is Very Specific As To Acts Committed By Struck, Gottfried, Corizon, Wexford, Centurion Setting Forth Dates, Emails Used 23

I. The Complaint Is Very Specific As To Acts Committed By Wexford Health Sources, Inc; Weber Gallagher Simpson Stapleton Fires & Newby Llp; Jones Skelton Hochuli Setting Forth Dates, Emails Used 24

J. The Complaint Is Very Specific As To Acts Committed By Kelley Morrrissey, Daryl Johnson With Dates And Faxes Used 25

The Complaint Alleges Common Law Claims 25

The Complaint Allleges A Conspiracy 26

The Complaint Alleges Participation In The Operation And Management Of The Affairs Of The Enterprise 27

The Pattern Of Racketeering Activity 27

The Complaint Alleges A Claim For Declaratory Relief 29

The Complaint Alleges A Claim For Declaratory Relief Against Liability Insurers 30

The Supreme Court Lowered The Bar 31

And Created The Option Of Recovery 31

Even Where They Had Not Been Directly Lied 31

This Bankruptcy Was Filed In Bad Faith 31

The Complaint Properly Asserts Claims Against Defendants For Fraud, Fraudulent Retention, Fraudulent Transfer, Fraudulent Conveyance, Fraud, Deceit, Fraudulent Concealment, Constructive Fraud, Constructive Taking, Unjust Enrichment, Breach Of Fiduciary Duty, Deceptive Business Practices, Fraud Upon The Court, And Conspiracy To Engage In These Torts. 32

The Complaint States A Plausible Claim For Arizona And Federal Rico 32

Under Arizona Law There Is A Viable Rico Claim Under Husky For Violation Of Intangible Rights 32

Benefit Was Obtained By Contractual Relationships 34

Standing Exists For The Claims 34

Relationship Of Predicate Acts To Some Organizing Principle Making Them Part Of Common Plan 35

How Predicate Acts Pose A Threat To Continued Criminal Activity 35

When States Authorities Confirm They Gave Plaintiff The Address To Serve M2, The Actual Notice And Lack Of Prejudice, Show Service Is Proper 35

As This Is Not An Appeal Or A Proceeding In For A Pauperis, 28 Usc 1915(A)(3) Does Not Apply 36

The Complaint Alleges That The Equitable Doctrine Of Judicial Estoppel Mandates Reief 37

A. Position Of Fact In The Context Of Judicial Estoppel 37

B. The Position Of Facts In This Matter Are: 37

C. The Change In The Winds Of Self Interest Are: 39

D. How Defendants Changed The Truth As Their Self Interests Changed 40

Judicial Estoppel Prevents Parties From Playing Fast And Loose With The Courts Which Is A Threat To Courts' Integrity 40

An Inconsistent Position In The Same Or A Prior Proceeding, Whether Or Not Adopted By The Court, Is Subject To Judicial Estoppel 40

E. The Fast And Loose Conduct 42

Defendants Have Unclean Hands At Every Stage Of These Proceedings, Because They Did Not Allow The Third Circuit To Decide Spoliation Claims Against Them 42

F. The Unclean Hands Are: 42

Counsel Are Aware That Conduct Before And During Litigation In Court Filings Return To Haunt Both The Attorneys And Their Clients Under The Doctrine Of Estoppel 42

G. The Prior Inconsistent Positions Are 43

As Both Counsel And Defendants Have Not Made Faithful Representations To The Courts Judicial Estoppel Applies 43

H. The Unfaithful Representations To The Courts By Defendants 43

Judicial Estoppel Protects The Integrity Of The Judicial System, Not The Litigants, So It Does Not Require Detrimental Reliance 43

I. The Prior Representations By Defendants Are 44

J. Bankruptcy Estate With An Unadministered Asset Is Somewhat Like The Unfortunate Pirates 46

K. The Unadministered Assets Are 47

L. The Non Disclosure By The Debtor 49

When As In This Case The Defendant Stands To Benefit 49

M. As Defendants Counsel Aided The Debtor In Filing This Fraudulent Bankruptcy, Bad Legal Advice Does Not Relieve The Debtor Of The Consequences Of Its Own Acts And Judicial Estoppel Applies 50

Conclusion 50

CASES

Adelphia Recovery Trust v. HSBC Bank USA (In re Adelphia Recovery Trust), 634 F.3d 678, 697 (2d Cir. 2011). 42

Alcorn County v Interstate Supplies, 731 F2d 1160, 1168 (5th Cir. 1984) 12

Allen v. Zurich Ins. Co., 667 F.2d 1162, 1166 (4th Cir. 1982)). 39

Arnold v. National County Mutual Fire Insurance Co., 725 S.W.2d 165, 167 (Tex. 1987 9

Astor Chauffeured Limousine Co. v. Runnfeldt Inv. Corp., 910 F.2d 1540, 1548 (7th Cir. 1990) 43

Azurite Corp v Master & Co, 730 F Supp 571 (SD NY 1990) 33

Beiner & Chapman, at 11-12 (citing Wakefield v. SWC Sec., Inc. (In re Wakefield), 293 B.R. 372, 378 (N.D. Tex. 2003)) 43

Bishop v Corbitt Marie Ways Inc, 802 F2d 122 (5th Cir. 1986). 12

Brandon v. Interfirst Corp., 858 F.2d 266, 268 (5th Cir. 1988) 40

Brassfield v. Jack McLendon Furniture, Inc., 953 F. Supp. 1424, 1432 (M.D. Ala. 1996) 45

Bridge v Phx Bond & Indemn 553 US 639, 1 (2008) 33

Browning Mfg. v. Mims (In re Coastal Plains, Inc.), 179 F.3d 197, 205 (5th Cir. 1999) 42
Bruner v Baker, 506 F.3d 1021, 1026 (10th Cir 2007) 12
Cannon-Stokes v. Potter, 453 F.3d 446, 448-49 (7th Cir. 2006) 49
Chambers v. Nasco, Inc., 501 U.S. 32, 35 (1991) 19
Chitsey v. National Lloyds Insurance Co., 738 S.W.2d 641, 643 (Tex. 1987). 10
Cleveland 526 U.S. 795 (1999) 36
Collins v Sidharthan, (In re KSRP Ltd) 809 F3d 363 (5th Cir. 2015)(..... 17
Cotter v. Skylands Cmty. Bank (In re Cotter), Bankr. No. 08-12504, Adversary No. 11-01619, 2011 WL 5900811, at *6-7 (Bankr. D.N.J. Oct. 24, 2011) 39
Crown Life Insurance Co. v. Casteel, 22 S.W.2d 378, 383 (Tex. 2000) 8
Daggett v Jackie Fine Arts, 733 P.2d 1142 (1986) 32, 33
DeRosa v. Nat'l Envelope Corp., 595 F.3d 99, 103 (2d Cir. 2010) 42
Edwards v. Aetna Life Ins. Co., 690 F.2d 595, 598 (6th Cir. 1982)(" 43
Fokkena v. Tripp (In re Tripp), 224 B.R. 95, 98 (Bankr. N.D. Iowa 1998) 47
Franzi v Koedyker, 758 P.2d 1303 (1985), ... 33
Garcia v. BNSF Ry. Co., 387 S.W.3d 763, 766 n.1 (Tex. Ct. App., Feb. 22, 2012) 43
George v Blue Diamond Corp, 718 F Supp 539, 549(WD La. 1989) 33
Guinness PLC v. Ward, 955 F.2d 875, 899-900 (4th Cir. 1992) 43
Hancock Bank v. Bates (In re Bates), Bankr. No. 09–51279–NPO, Adversary No. 09–05092–NPO, 2010 WL 2203634, at *14 (Bankr. S.D. Miss. May 27, 2010). 43
Hannosh v Segal, 328 P.3d 1049 (2014) 12
Hansford v. Bank of Am., Civ. Action No. 07-4716, 2008 WL 4078460, at *9 n.5 (E.D. Pa. Aug. 22, 2008) 42
In re "Placid oil Co, 463 BR 803 (Bankr. N.D.TX 2012) 31
In re Coastal Plains, Inc., 179 F.3d 197, 205 (5th Cir. 1999) 36, 40
In re FV Steel & Wire Co., 349 B.R. 181, 186 (Bankr. E.D. Wis. 2006) 46
In re Hall, 2008 Bankr. Lexis 4903 (Bankr. WD Tex. 2008) 16
In re Henderson, 2006 Bankr. Lexis 2306 (Bnkr. ND Tex. 2006) 14
In re Longoria, 2009 Bankr. Lexis 64 (WD Tex 2009) 35
In re LTL Mgmt, LLC, 64 F4th 84, 110 (3rd Cir. 2023) 31
Ins. Corp. V. Compagnie Des Bauxites, 456 U.S. 694 (1982) 17
Izaguirre v. Texas Employers' Insurance Association, 749 S.W.2d 550, 553 (Tex.App.—Corpus Christi 1988, writ denied). 9
Jay E. Rosenblum, The Appropriate Standard of Review for a Finding of Bad Faith, 60 Geo. Wash. L. Rev. 1546, 1569-70 (1992). 36
Jethroe v. Omnova Solutions, Inc., 412 F.3d 598, 600 (5th Cir. 2005). 48
Jett v. Zink, 474 F.2d 149, 154-55 (5th Cir. 1973) 36
Kane v. Nat'l Union Fire Ins. Co., 535 F.3d 380, 387 (5th Cir. 2008) 48

Khurana v Innovative Health Care Sys Inc, 130 F3d 143, 155-56 (5th Cir. 1997) ... 11
Konstantinidis v. Chen, 626 F.2d 933, 937 (D.C. Cir. 1980) ... 43
La Porte Constrc Co. v Bayshore National Bank. 85 F.2d 1254, 1256 (5th Cir. 1986) ... 17
Landry v Airline Pilots Assn, 901 F2d 404 (5th Cir. 1989) ... 33
LaSallle Bank Lake View v Seguban, 937 F Supp 1309 (D ll 1996) ... 33
Lawson v Dallas County, 286 F.3d 257, 263-264(5thCir. 2002) ... 12
Love v. Tyson Foods, Inc., 677 F.3d 258, 266 (5th Cir. 2012) ... 48
Mason v. Lowe (In re Mason), Bankr. No. 11–10251, Adversary No. 11–1042, 2012 WL 733834, at *7-9 (Bankr. E.D. Tenn. Mar. 6, 2012) ... 41
Miller Hydro Group v Popovitch, 793 F Supp 24 ME 1992) ... 33
National Enters Inc v Mellon Fin Services 847 F2d 25 (5th Cir. 1998) ... 34
New Hampshire v. Maine, 532 U.S. 742, 749–50 (2001) ... 36
Ocean Energy II, Inc. v Alexander & Alexander, Inc, 868 F.2d 740 (5th Cir. 1989) .. 12
Old Times Enters Inc v Intl Coffee Corp, 862 F2d 1213 (5th Cir. 1989) ... 33
Payless Wholesale Distribs., Inc. v. Alberto Culver (P.R.) Inc., 989 F.2d 570, 571 (1st Cir. 1993). ... 7
Piotrowski v City of Houston, 237 F3d 567, 578 (5th Cir. 2001) ... 12
Rebein v Adkins (III Inc) 2006 Bankr. Lexis 707 (Bankr. Kansas 2006) ... 35
Rocor International v. National Union Fire Insurance, 77 S.W.3d 253, 261-262 (Tex. 2002) ... 8
Rose v. Beverly Health & Rehab. Servs., Inc., 356 B.R. 18, 24, 25 (E.D. Cal. 2006) 46
Rotella v Wood, 528 US 549, 556 (2000) ... 17
Ruiz v Estelle, 679 F.2d 1115, 1154-55(5th Cir. 1982) ... 12
Russello v United States, 446 US 16 (1983) ... 34
Schneider v. Unum Life Ins. Co. of Am., No. CV 05-1402-PK, 2008 WL 109065, at *7 n.3 (D. Or. Jan. 8, 2008); ... 41
Shaffer v Williams, 794 F.2d 1030 (5th Cir. 1986) ... 12
Spicer v. Laguna Madre Oil & Gas II, LLC (In re Tex. Wyo. Drilling, Inc.), 422 B.R. 612, 635 (Bankr. N.D. Tex. 2010) ... 48
St. Elizabeth Hospital v. Garrard, 730 S.W.2d 649, 650 (Tex. 1987). ... 9
State v Griffin, 483 P.3d 273 (2021) ... 33
State v Henry, 68 P.3d 455 (2003) ... 32
State v Poundstone, 880 P.2d 731 (1994), ... 33
State v Suarez, 670 P.2d 1983), ... 33
Teledyne Indus., Inc. v. NLRB., 911 F.2d 1214, 1218 (6th Cir. 1990)). ... 40
Tennessee Student Assistance Corp v Hood, 541 US 540 (2004) ... 35
Thomas v. Gen. Motors Acceptance Corp., 288 F.3d 305, 307 (7th Cir. 2002) ... 36

Thomas W. Merrill, Property and the Right to Exclude, 77 NEB. L. REV. 730, 750-51 (1998)..... 46
Travelers Indem. Co. v. Bailey, 557 U.S. 137 (2009); Jones v. Estate of Cole, 483 F. App'x 468 (10th Cir. 2012) 41
Twin City Fire Insurance Co. v. Davis, 904 S.W.2d 663, 665-667 (Tex. 1995). 10
Tyler v O'Neil, 994 F Supp. (E.D. Pa 1998) 33
United States for Use of Am. Bank v. C.I.T. Constr. Inc. of Tex., 944 F.2d 253, 258 (5th Cir. 1991)). 47
United States v Elliott, 571F.2d 880, 902 (5th Cir. 1978) 34
United States v Posado-Ros, 158 F3d 832 (5th Cir. 1998) 11
Universal Life Insurance Co. v. Giles, 950 S.W.2d 48, 55 (Tex. 1997), ... 9
Uranga v Davis, 893 F.3d 282, 286 (5th Cir. 2018) 13
Valdez v. JDR LLC, No. CV 04-1620-PHX-JAT, 2006 WL 2038456, at *3 (D. 48
Valente v Donahue, 2004 US Dist. Lexis 11786 (N.D.Ill. 2004) 16
Viles v. Security National Insurance Co., 788 S.W.2d 566, 568 (Tex. 1990)..... 9
Walker v. Delta Air Lines, Inc., No. Civ.A. 100CV0558-TWT, 2002 WL 32136202, at *4 (N.D. Ga. Aug. 1, 2002)..... 47
Warda v. Comm'r, 15 F.3d 533, 538 (6th Cir. 1994)..... 40
Washington v. Patis, 916 F.2d 1036, 1039 (5th Cir. 1990). 44
Wells Fargo Bank, N.A. v. Oparaji (In re Oparaji), 698 F.3d 231, 235 (5th Cir. 2012) 42

STATUTES

13-105(37)---------- 31
Ars 13-2301.E.12---------- 30
Tex. Bus. & Com. Code Ann. § 24.005 (West 1987) ---------- 28

INTRODUCTION

CONDUCT OF THE LIABILITY INSURERS SATISFIES THE BUT FOR CAUSATION BECAUSE HAD THEY NOT FAILED TO COMPLY WITH THEIR STANDARDS, THERE WOULD HAVE BEEN NO VIOLATIONS. THE FAILURE OF THE LIABILITY INSURERS TO FOLLOW THEIR OWN POLICIES AND PROCEDURES CAUSED THE INJURY

THE COMPLAINT SHOWS THE RICO ENTERPRISE IS SEPARATE AND DISTINCT FROM THE DEFENDANTS

¶Chapter 541 of the Texas Insurance Code addresses unfair competition and unfair or deceptive acts or practices in the insurance industry. Tex.I ns. Code §541.001 et seq.; Crown Life Insurance Co. v. Casteel, 22 S.W.2d 378, 383 (Tex. 2000). The statute declares that certain conduct in the insurance business is unfair competition or an unfair or deceptive act. Ins. Code §§541.051-541.061. The statute affords a private cause of action for damages when an insurer commits an unfair act or practice defined as such by §541.051 through §541.061.

¶One part of the statute deals with unfair claims settlement practices as defined in §541.060. That section states that an insurer must not do certain acts and these normally form the basis of the causes of action in an insurance code violation suit or counterclaim. The statute declares that an insurer must not:

Misrepresent a material fact or policy provision relating to the coverage issues (§541.060(a)(1)).

Fail within a reasonable time to either affirm or deny coverage of a claim or, under a liability policy, submit a timely reservation of rights letter. (§541.060(a)(4)).

Refuse to pay a claim without conducting a reasonable investigation. (§541.060(a)(7)).

Fail to promptly provide a reasonable explanation of the basis in the policy, with regard to the facts or applicable law, for the insurer's denial of a claim. (§541.060(a)(3)). Rocor International v. National Union Fire Insurance, 77 S.W.3d 253, 261-262 (Tex. 2002).

¶In order to establish a misrepresentation claim, it must be proved that there has been a misrepresentation of a material fact or a material misstatement of law. (§541.061). These may either be based on affirmatively making an untrue statement or by failing to disclose a matter required by law to be disclosed. (§541.061).

¶For a "person" to sue under the statute, -they must be a party insured or a beneficiary named under the policy. (§541.060(a)). (§541.060(b)). The conduct must also be alleged to have been the "producing" cause of any damages, and not the "proximate" cause.

¶Available damages for a suit alleging the statutory violations includes actual damages and attorney's fees. (§541.152). To recover damages for mental anguish, an insured must plead and prove that any violation was done knowingly as set out in §542.002(1). Such a pleading can also support an award of enhanced damages, not to exceed three times the amount of actual damages. (§541.152(b)).

¶The Texas DTPA provides four bases for relief. First is any conduct specifically enumerated under the Act as false misleading or deceptive. Tex. Bus. & Comm. Code §17.46(b).

¶A second basis is the breach of an express or implied warranty.

¶Third is any "unconscionable conduct", which is somewhat broader a category than any under the Insurance Code. §17.50(a)(3).

¶Finally, a fourth base is any act or practice in violation of the Insurance Code. §17.50(a)(4).

¶The DTPA is similar in effect as the Insurance Code in a coverage litigation case with a few additional requirements. In order to sue under the DTPA, one must plead and prove that you are a "consumer" as defined in §17.50 of the Act. Under the DTPA, a plaintiff may recover economic damages and attorney's fees, but recovery of mental anguish damages is dependent on pleading and proving that the wrongful conduct was committed knowingly or intentionally. §17.50(b)(1). Enhanced damages are also available on such pleading and proof. §17.50(b)(1).

¶ An insurance company has a common-law duty to deal fairly and in good faith with its insured. Arnold v. National County Mutual Fire Insurance Co., 725 S.W.2d 165, 167 (Tex. 1987). An insurer must treat its insured under its policy of insurance on a reasonable basis and investigate the insured's claim thoroughly and in good faith, denying coverage only after that investigation reveals that there is a reasonable basis for doing so. Viles v. Security National Insurance Co., 788 S.W.2d 566, 568 (Tex. 1990). The duty has generally been applied when litigating over the insurer's conduct with regard to the handling of a claim. The duty of good faith, and the resulting tort cause of action, is based on a special relationship between the insurer and insured and its breach allows for relief beyond that available in a breach of contract case. Arnold v. National County at 167.

¶The Texas Supreme Court, in Universal Life Insurance Co. v. Giles, 950 S.W.2d 48, 55 (Tex. 1997), stated a two element test for application of the duty:

The insurer's liability to perform its contractual obligation must have been reasonably clear at the time of the insurer's conduct alleged as a breach of the duty of good faith.

The insurer, at the time of its conduct claimed to be a breach of duty, knew or by the exercise of reasonable diligence should have known that its liability was reasonably clear.

¶Damage in a "bad faith" claim does not include the policy benefits because those arise out of the breach of contract. Izaguirre v. Texas Employers' Insurance Association, 749 S.W.2d 550, 553 (Tex.App.—Corpus Christi 1988, writ denied). Damages for mental anguish are recoverable even without a showing of physical injury. Arnold v. National County Mutual Fire Insurance Co., 725 S.W.2d 165, 167 (Tex. 1987); St. Elizabeth Hospital v. Garrard, 730 S.W.2d 649, 650 (Tex. 1987).

¶The prevailing insured can also recover appropriate consequential damages that come out of the tort claim. Chitsey v. National Lloyds Insurance Co., 738 S.W.2d 641, 643 (Tex. 1987). Exemplary damages are recoverable, but only if the insured pleads and proves the existence of actual damages beyond the policy benefits. Twin City Fire Insurance Co. v. Davis, 904 S.W.2d 663, 665-667 (Tex. 1995).

¶A breach of contract action involves allegations of the existence of a valid insurance policy and the facts and policy terms under which recovery is sought. The insured should assert that it has given notice of the claim, demand was made and that the insured has complied with all terms and conditions precedent in the policy. Damages are generally the policy benefits, consequential damages and attorneys' fees.

¶" Liability Insurers owe the special duty to me, and other prisoners, which duty mandates they compensate me and other prisoners when the type of misconduct I allege in this complaint happens. They violated their duty of loyalty, duty to exercise reasonable skill and care, and to deal impartially." (ECF 96 @ 266)

¶"Liability Insurers with their affiliated insurers, have abused their office, me and other prisoners nationwide, because, they do not review and investigate prisoner claims. They have Wexford, Naphcare, Corizon, and Centurion, determine what is or is not to be paid. They force litigation and only when a prisoner litigates a claim and prevails, do they pay, the judgment or settlement during that litigation." (ECF 96 @ 267)

¶It is a condition precedent for Corizon, Centurion, Naphcare, Wexford, Ulibarri to carry insurance for paying any claims for damages to inmates, including me. Without the insurance they cannot do business with prisoners. (ECF 96 @ 268)

¶Liability Insurers must pursuant to law, and established insurance standards, as well as their internal policies, promptly investigate all claims and not force litigation." (ECF 96 @ 270)

¶As I am a prisoner, and in all prisoner cases, discussed in this complaint, they failed to follow these standards, did not investigate, violated their own internal guidelines, and forced litigation. Had these been non prisoner claims, they would have investigated and followed the law as well as their internal policies." (ECF 96 @ 271)

¶This is a violation of the spirit and intent of insurance, lack of due diligence, abuse of power, malicious failure to pay claims, wrongful denial of benefits, dishonesty, breach of fiduciary duty, breach of duty of loyalty under the terms of the policy, breach of implied duty of good faith and fair dealing. "(ECF 96 @ 272)

¶This is deceit as it is intentionally falsely leading prisoners to believe, something that is not true, to deceive or trick. This is willfully making false statements, with intent that prisoners like Plaintiff shall act in reliance on it, suffering harm in consequence. These are false representation of facts with knowledge of their falsity by Defendants. "(ECF 96 @ 273)

¶Liability Insurers have used frivolous or unfounded refusals to pay prisoner claims. Their motives of self-interest or ill will, was and always has been to force litigation by prisoners of their claims. They knew or recklessly disregarded the basis for these claims. "(ECF 96 @ 274)

¶Liability Insurers that have provided performance bonds and liability insurance, have breached the covenant of good faith and fair dealing, fiduciary duty, and engaged in bad faith settlement practices. "(ECF 96 @ 278)

¶Liability Insurers have put in place the practice, in violation of law, that MANDATES litigation, in prisoner cases." (ECF 96 @ 279)

¶By omission Liability Insurers have failed to, as mandated by law, in prisoner cases, acknowledge and promptly act on all claims. Liability Insurers fail to follow reasonable standards, standards followed by the insurance community in all cases, for investigation of claims, in prisoner cases. Liability Insurers deny claims without reasonable investigation. '(ECF 96 @ 280)

¶ECF 96 Para 57 States

- During all times the enterprise Correctional Health, is made by the association in fact of Valitas Intermediate Holdings Incorporated, a Delaware Corporation; M2 HoldCo LLC, a Florida Limited Liability Co; M2 LoanCo LLC, a Florida Limited Liability Co; M2 EquityCo LLC, a Florida Limited Liability Co; Becken Petty O'Keefe, a Delaware Corporation and Liability Insurers, was engaged in interstate commerce, in that the enterprise acquired, financed Corizon's services all around the nation.

¶ This satisfies the test in *Old Time Enter Inc v Int'l Coffee Corp, 862 F.2d 1213 (5th Cir. 1989)*. Liability Insurers participated in the operations of the enterprise by diverting from its written policies *United States v Posado-Ros, 158 F3d 832 (5th Cir. 1998)* benefiting Defendants. *Khurana v Innovative Health Care Sys Inc, 130 F3d 143, 155-56 (5th Cir. 1997)*

¶They provided coverage in violation of their own written policies that enabled Corizon. Liability Insurers gave tacit authorization to the misconduct. Liability Insurers thereby set in motion a series of events which they should have known would cause the violations. Liability Insurers had distinct roles then the enterprise, with Wexford, Corizon, Centurion,

Naphcare and the enterprise benefiting. As Liability Insurers had actual or constructive knowledge of Defendants misconduct, by issuing coverage, Liability Insurers caused the misconduct.

¶ The verified complaint states that liability insurers "set in motion a series of events" which they should have known would cause the violations. *Bruner v Baker, 506 F.3d 1021, 1026 (10th Cir 2007)* these series of events re: Liability Insurers making substantial and not minor departures from their policies and practices. *Wassum v City of Bellaire Texas, 861 F.2d 453, 456 (5th Cir. 1998)*

¶These departures are liability insurers being aware of unlawful practices by Defendants *Ruiz v Estelle, 679 F.2d 1115, 1154-55(5th Cir. 1982)* The coverage was provided by Liability Insurers pursuant to their exceptions to their practices and policies made for the Debtor, *Lawson v Dallas County, 286 F.3d 257, 263-264(5thCir. 2002)*

¶As a consequence liability insurers had actual or constructive knowledge of Defendants misconduct. *Piotrowski v City of Houston, 237 F3d 567, 578 (5th Cir. 2001),* thereby giving tacit authorization to the misconduct.

¶This enterprise is an associated in fact enterprise and ongoing *Alcorn County v Interstate Supplies, 731 F2d 1160, 1168 (5th Cir. 1984) Shaffer v Williams, 794 F.2d 1030 (5th Cir. 1986)* The racketeering income benefits the enterprise and Defendants *Bishop v Corbitt Marie Ways Inc, 802 F2d 122 (5th Cir. 1986).* The enterprise and Defendants played entirely distinct roles as set forth in the predicate acts.

ARIZONA LAW ALLOWS RICO CLAIMS FOR VIOLATION OF INTANGIBLE RIGHTS UNDER RICO

¶ Arizona law allows RICO claims for violation of intangible rights *Hannosh v Segal, 328 P.3d 1049 (2014)* As set forth in *Ocean Energy II, Inc. v Alexander & Alexander, Inc, 868 F.2d 740 (5th Cir. 1989)* injury from fraud on the corporation is not the property of the bankruptcy estate. This complaint clearly sets forth direct injury from the predicate acts, which is distinct from the basis of the estate claims, targeted at preventing satisfaction of the debt by the fraudulent Debtor. *Jeffreys v Extended, 784 F Supp 146 (D Del. 1992)*

STATEMENTOF RELEVANT FACTS

¶ Uranga v Davis, 893 F.3d 282, 286 (5th Cir. 2018) states that prison logs are evidence that a prisoner delivered documents to prison authorities and that the documents were either filed in court or served, because prisoner are not free to walk to a post office. It further states the date of delivery is the date of filing.

THESE CLAIMS ACCRUED WHEN THE CIRCUIT COURT DECLINED TO DECIDE THE CLAIMS AS TO ALL DEFENDANTS

¶ Exhibit A shows that February 16, 2023 I filed a motion to recall the mandate docketed February 21, 2023. Exhibit A further shows that counsel for the Debtor did not serve me a copy of their suggestion for bankruptcy fled in the Third Circuit on February 17, 2023. It reads " There is no incoming legal mail from Meyer Unkovic & [2]Scott Pittsburgh during the period 2/17/23 to 2/28/23". The Exhibit shows that the Third Circuit on March 13, 2023 declined to rule on my motion due to this bankruptcy. A copy of the docket sheet shows that Defendants did not ask the Third Circuit to decide the claims against them, except the Debtor.

¶After Corizon notified the Third Circuit of this Bankruptcy, that court in Case 22-1861 on April 13, 2023 abstained as to all Defendants, because the claims in that case, were about spoliation by all Defendants, and the Third Circuit, District Court, Defendants, failed to address the spoliation. (ECF 96 @68) As such, these spoliation claims, accrued when Defendants notified the courts, and prevented them from deciding the claims, as mandated by law. (ECF 96 @ 72)

These Defendants have by operation of the federal bankruptcy laws, in effect, transferred the spoliation claims, to this court, against all Defendants. Defendants, and each of them, acting in bad faith, adopted outside the adversarial process the policy to conceal and falsify evidence in prisoner cases, as set forth in this complaint. They concealed and also provided false information as to the electronic evidence that they had in their possession. Defendants failed to perform their duty to disclose the evidence that they had in their possession. They failed

2 They represented Corizon in Pittsburgh.

to exercise reasonable care to prevent harm to me during litigation against them. They knew or had reason to know that their misconduct would defeat my claims. (ECF 96 @ 73)
¶ These causes of action were not previously decided. "Once a court decides an issue of fact or law necessary to its judgment, hat decision precludes relitigation of the same issue on a different cause of action." *Matter of Lewisville Properties Inc, 849 F.2d 946, 949 (5th Cir. 1988)* The Third Circuit was prevented from deciding these because of the bankruptcy.

¶"January 30, 2013 Mark Hale, the CEO of Wexford signed a contract in Pittsburgh, agreeing to cooperate with Corizon Health. This contract was scanned and signed on the same date by Denel Pickering for the ADCRR in Phoenix. Weber Gallagher, Jones Skelton, Struck and Gottfried were involved." (ECF 96 @ 62)

"Steve Rector CEO of Corizon on July 20, 2018 signed an agreement to cooperate with Centurion in Brentwood, Tennessee and it was scanned and signed on the same date by Ken Sanchez in Phoenix for ADCRR. Struck, Renaud Drury, Quintairios Prieto and Gottfried were involved. "(ECF 96 @ 63)

"Steven H Wheeler, CEO of Centurion from Vienna, Virginia on May 25, 2019 signed a cooperation agreement agreeing to cooperate with Corizon. The document was cosigned in Arizona by Kenneth P. Sanchez, for ADCRR. Broening Oberg, Struck and Gottfried were involved." (ECF 96 @ 64)

"Bradford McLane CEO Naphcare on May 24, 2022 signed in Alabama a document agreeing to cooperate with Centurion and on the same date it was scanned and signed by Kenneth P. Sanchez, ADCRR in Phoenix. "(ECF 96 @ 65)

THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT SCREENED THE SPOLIATION CLAIMS

¶Bankruptcy courts only review claims presented to the District/Circuit/State Courts *In re Henderson, 2006 Bankr. Lexis 2306 (Bankr. ND Tex. 2006)* (must be similar cause of action). These spoliation claims, were screened by the Circuit Courts, and these courts abstained, after Corizon filed for Bankruptcy.

EMAILS USED TO PERPETRATE THE FRAUD IS VERY SPECIFIC

DEFENDANT	EMAIL USED TO PERPERATE FRAUD
Gottfried	azag.gov
Struck	swfirm.com.
Corizon Health	ch.com"
Conlon	rcdmlaw. com
Centurion	teamcenturion.com
Barnes	bowwlaw.com
Wexford	wexfordhealth.com
Quintairos Prieto Wood	qpwblaw.com
Rowey	qpwblaw.com
Metcalf	qpwblaw.com
Erwin	azadc.gov
Johnson	azadc.gov
Ulibarri	azadc.gov
Bohuszewicz	azadc.gov
Morrissey	azag.gov
Jones Skelton	jsh.com
Weber Gallagher	wglaw.com

WHAT THE DEFENDANTS STATE

¶ ECF 118 page 1-4 is fairly accurate. PP 5 argues defects have not been cured, the court lacks subject matter jurisdiction as to Declaratory relief, the summons and complaint have not been served,[3] Plaintiff fails to connect M2Loan to any activities and that para 138 in

[3] The Clerk of the Court does not issue summons until after the court grants leave to amend, when there is a motion to amend pending.

ECF 96 is the only new allegation as to M2Loan. It goes on to say that the cooperation agreements do not mention M2 (pp 6-7)

¶ ECF 121 argues that the complait must be screened as it was dismissed by the WD Pennsylvania. It does not address the issues before the Third Circuit. Wexford states that the complaint must be screened under 28 USC 1915(a) (3). They cite *In re Hall, 2008 Bankr. Lexis 4903 (Bankr. WD Tex. 2008)* and *Valente v Donahue, 2004 US Dist. Lexis 11786 (N.D.Ill. 2004)* for this proposition.

¶ ECF 125 argues the amendment would be prejudicial (pp 1), incorporating ECF 25 and 86 (pp2) that the claims are speculative, violating Rules 8 and ((pp 2) and prejudice, judicial estoppel does not apply. Joining in ECF 118, 120 and 121. (pp 4)

¶ Lexington at PP 1.2 is inaccurate as it states the claims are time barred, does not state a viable RICO claims, so facts are alleged, no injury by Lexington, it would be futile (pp 2-4) and violates Rules 8-9. PP 4-9 states separate and distinct RICO injury is not separate, fails to allege two predcate acts as to Lexington , that injury under RICO cannot be for expectation, there is no but for causation, no aider and abetter RICO liability and no RICO conspiracy.

THE COMPLAINT SETS FORTH A CONTINUOUS COURSE OF CONDUCT BY DEFENDANTS TO REMOVE AND DELIVER TO THEM EVIDENCE ADVERSE TO THEM THROUGH ULIBARRI

¶Ulibarri is a private contract paralegal. Struck and the Arizona Attorney General's Office have Ulibarri, under the guise of helping inmates, take evidence and documents from inmates that are evidence of wrongdoing by Defendants, and provide these two Defendants. This is what Ulibarri did to me as I state in this complaint. Hartford and Powers Leavitt enabled Ulibarri to engage in this misconduct, by providing her the coverage, without complying with industry standards, as set forth in this complaint. But for their liability insurance, Ulibarri would not be. (ECF 96@ 85)

ECF 96 ALLEGES AS DEFENDANTS AND THE DEBTOR ARE TRUSTED BY EACH OTHER, HAVE THE SAME MODE OF OPERATION, HUSKY INTERNATIONAL ELECTRONICS, INC. V. RITZ, AUTHORIZES RELIEF

¶In Husky International Electronics, Inc. v. Ritz, 136 S. Ct. 1581 (2016) the Supreme Court held that actual fraud does not require a misrepresentation to the creditor. The Court thereby created the option of recovery for creditors under Section 523(a)(2)(A) even where they had not been directly lied to, as long as the debtor still implemented actual fraud in relation to its debt. (ECF 96 @ 75)

THIS COURT HAS RELATED TO JURISDICTION

¶"To (the)extent caveat expressed by US Supreme Court in Arbaugh to general rule that courts should avoid merits analysis in determining jurisdiction applied, (the) court concluded that debtor's officers contractual indemnity claim passed muster, and district court properly concluded that it had "related to" jurisdiction.....claim against debtor was not immaterial and made solely for obtaining jurisdiction or wholly insubstantial or frivolous" Collins v Sidharthan, (In re KSRP Ltd) 809 F3d 363 (5th Cir. 2015)(text omitted modified added for emphasis)"(ECF 96 @ 66)

UNDER THE INJURY DISCOVERY RULE THESE CLAIMS ACCRUED WHEN THE BANKRUPTCY WAS FILED

¶ *Rotella v Wood, 528 US 549, 556 (2000) :La Porte Constrc Co. v Bayshore National Bank. 85 F.2d 1254, 1256 (5th Cir. 1986) In re Placid oil Co, 463 BR 803 (Bankr. ND Tex. 2012) @ 813* state only when there is injury, can one file suit.

¶The Supreme Court Has Held When Documents Have Been Destroyed, The Plaintiff Has Been Deemed to Have Established Personal Jurisdiction. *Ins. Corp. V. Compagnie Des Bauxites, 456 U.S. 694 (1982)* (Affirming Order That Imposed Sanction of Deeming Personal Jurisdiction Established) "

DEFENDANTS CONDUCT ARE INEXTRICABLY ENTWINED WITH THE DEBTOR

¶Appendix A, B, C and D4 show that the conduct of Defendants are inextricably entwined with the conduct of the Debtor Fire Eagle LLC v Bischoff, 710 F.3d 299 (5th Cir. 2003). They

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4 ECF 96

use the same modus operandi. These claims affect distribution of the Debtor's assets. Howell Hydrocarbons v Adams, 897 F2d 183 (5th Cir. 1990) Because of their identity of interests, the cooperation agreements that they have entered into, and as these Defendants are alter egos of each other, they are named as parties. These ¶Defendants were parties, to the spoliation claims in the District and Circuit Courts. Without their joinder, I cannot get complete relief, because, as the Debtor has filed for this bankruptcy, the Circuit Court and District courts have, as required by law, declined to hear my spoliation claims. " (ECF 96@ 61)

THE COMPLAINT ALLEGES INTERSTATE COMMERCE LINK

¶During all times the enterprise Correctional Health, made of Valitas Intermediate Holdings Incorporated, a Delaware Corporation; M2 HoldCo LLC, a Florida Limited Liability Co; M2 LoanCo LLC, a Florida Limited Liability Co; M2 EquityCo LLC, a Florida Limited Liability Co; Becken Petty O'Keefe, a Delaware Corporation and Liability Insurers, was engaged in interstate commerce, in that the enterprise acquired, financed Corizon's services all around the nation. (ECF 96 @ 140)

THE COMPLAINT SHOWS ANKURA CONSULTING AIDED THE DEBTOR IN SUBMITTING FALSE SCHEDULES AND REPORTS

¶Ankura consulting was hired to conduct due diligence. Russell Perry of Ankura did not examine the financials as he should have, especially the use of COVID funds, and any claims against Corizon for spoliation of evidence. (ECF 96 @ 136)

¶After discussions with Tirschwell, M2 HoldCo LLC,; M2 LoanCo LLC; M2 EquityCo LLC, Tehum Care Services Inc aka Corizon a Texas Corporation; YesCare Corporation, a Texas Corporation and CHS Tex, a Texas Corporation, Valitas Intermediate Holdings Incorporated, a Delaware Corporation; by emails and orally, Ankura consulting through Russell Perry submitted false declarations, and did not include in it, all the assets transferred to Valitas for concealment, as well as all the liability. (ECF 96 @ 136)

CORIZON HAS HAD A HISTORY OF DEFRAUDING PRISONERS AND GOVERNMENT ENTITIES NATIONWIDE, AND IS AT IT AGAIN BEFORE THIS JUDGE, THROUGH TEXAS DIVISIONAL MEASURES USING ITS CORPORATE STRUCTURE AS A MERE INSTRUMENTALITY

¶The corporate structure of Tehum and its affiliated companies is a mere instrumentality to perpetrate fraud and engage in racketeering. See Appendix A, B, C and D The mere instrumentality is evidenced by Correctional Health Enterprise described below, maintaining a common, same and or similar business structure, policy, using a joint defense in all cases involving prisoners, restructuring in Texas for the purpose of defrauding prisoners and precluding federal courts from reviewing claims of violation of federal rights. Pre-litigation destruction of evidence is a recurring issue which is subject to sanction under Chambers v. NASCO, Inc., 501 U.S. 32, 35 (1991). (ECF 96 @ 100)

THE COMPLAINT SETS FORTH HOW THE SCHEME TO FRAUD DESIGNED BY CORIZON WORKED

¶Billions of dollars have been allocated by the United States during the COVID. Corizon, an entity owned by Valitas, Becken O'Keefe, obtained these funds. They however did not use these funds for the purposes intended. (ECF 96 @ 119) Though Corizon has never maintained its principal place of business in Texas, it decided to restructure in Texas for the explicit purpose of defrauding the United States, creditors and prisoners. (ECF 96 @ 123) Corizon hired lawyers to help it perpetrate the fraud and obtained legal advice, unbeknown to these lawyers, for the success of its scheme. United States v Ballard, 779 F.2d 887(5th Cir. 1986) (communication not privileged when used to perpetrate crime.) (ECF 96 @ 124)

¶ The liability insurers provided Corizon with substantial assistance, because they did not follow their policies and industry practices, in dealing with claims, involving Corizon and other Defendants. (ECF 96 @ 125)

¶After Scott King Corizon General Counsel submitted requests for pandemic related federal funds for all venues that Corizon was operating under During the period January 2020 through January 2021 Corizon obtained funds authorized by 12 USC 4703a; 15 USC 636; 15 USC 9001; 15 USC 9009a; 15 USC 9011; 15 USC 9051; 21 USC 21516; 22 USC 4801; 42 USC 234; 42 USC 603; 50 USC 4532; amongst others, for the 25 contracts cancelled. (ECF 96 @

128) He submitted reports with false declarations that the funds were used to pay employees. (ECF 96 @ 129)

¶Corizon sent emails to all management staff upon approval of Sara Tirschwell directing them, to have employees work at least 16 hours daily, and if they did work, they should not be paid overtime, and the Managers shall get bonuses. (ECF 96 @ 130)

¶The emails also informed managers not to have inmates go to hospital, see specialists, and if they die, so be it. (ECF 96 @ 131)

¶The Managers implemented the emails and received bonuses. (ECF 96 @ 132)

THE RICO PREDICATE ACTS ARE VERY SPECIFIC IN THE COMPLAINT

A. THE COMPLAINT SETS FORTH COMMUNICATIONS BETWEEN THE DEBTOR AND ITS PARENT AS WELL AS SUBSIDARIES TO PERPETATE THE FRAUD

¶In furtherance of the scheme Sara Tirschwell; Valitas Intermediate Holdings Incorporated, a Delaware Corporation; M2 HoldCo LLC, a Florida Limited Liability Co; M2 LoanCo LLC, a Florida Limited Liability Co; M2 EquityCo LLC, a Florida Limited Liability Co; Becken Petty O'Keefe, a Delaware Corporation, (hereinafter Valitas Family Of Companies), all through mail and emails from and to ch.com determined that Corizon reorganize in Texas. (ECF 96 @ 133)

¶They agreed to form Tehum Care Services Inc aka Corizon a Texas Corporation; YesCare Corporation, a Texas Corporation and CHS Tex, a Texas Corporation. Never has Corizon maintained its place of business in Texas. It has always maintained its principal place of business in Tennessee. This was all accomplished by emails sent from corizonhealth.com (hereinafter "ch.com") (ECF 96 @ 134)

B. THE COMPLAINT SHOWS AN AGREEMENT TO TRANSFER BULK OF THE ASSETS

¶They agreed to transfer bulk of the assets to CHS TEX, liabilities to Yescare and bonds and policies to Tehum. This reorganization was a sham designed to defraud. (ECF 96 @ 135) They then as planned filed for bankruptcy. (ECF 96 @ 136)

C. M2 HOLDCO LLC, M2 LOANCO LLC; M2 EQUITYCO LLC AGREED TO AND MADE SHAM LOANS BY MONEY LAUNDERING ASSETS OF THE DEBTOR

¶M2 HoldCo LLC, M2 LoanCo LLC; M2 EquityCo LLC, agreed to give Corizon loans from monies laundered from the assets of Corizon. These were sham loans. (ECF 96 @ 139)

D. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY QUINTAIROS PRIETO WOOD & BOYER; NICHOLE ROWEY; JOSEPH SCOTT CONLON; RENAUD COOK DRURY MESAROS PA SETTING FORTH DATES, EMAILS USED

¶March 6, 2020 Nichole Cullen sent emails from qpwblaw.com to Babich and Perkins at cch.com with copies to Gottfried and Carter directing them not to show me emails that they send or receive. Copies were sent to bowwlaw.com Orm@teamcenturion and cch.com. (ECF 96@ 141)May 6, 2018 Dr. Ayodeji Ladele sent emails to all staff that they must change patient records in order to comply with Parsons. Conlon prepared declarations that contradicted these emails. These emails were subsequently sent to Gottfried azag.gov and Struck swfirm.com. (ECF 96@ 142) May 6, 2018 Dr. Ayodeji Ladele sent emails to all staff that they must change patient records in order to comply with Parsons. Conlon prepared declarations that contradicted these emails. These emails were subsequently sent to Gottfried azag.gov and Struck swfirm.com (ECF 96@ 143)

E. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY ULIBARRI, ERWIN, BOHUSZEWICZ SETTING FORTH DATES, EMAILS USED

¶April 6, 2019 Julia Erwin ADCRR sent emails to Kelly Dudley, Bohuszewicz,; explaining that Ulibarri had seized evidence against Correctional Health, Attorney general's Office and ADCRR employees on CDS. She explained these were sent to Wexford Corizon Centurion corporate offices and their lawyers, Carter and Gottfried. She asked Dudley to draft a response for me. (ECF 96@ 144)

F. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY CENTURION OF ARIZONA; SARAH L BARNES; BROENING OBERG WOODS & WILSON PC; MICHAEL E. GOTTFRIED SETTING FORTH DATES, EMAILS USED

¶ March 6, 2020 Nichole Cullen sent emails from qpwblaw.com to Babich and Perkins at cch.com with copies to Gottfried and Carter directing them not to show me emails hat they send or receive. Copies were sent to bowwlaw.com Orm@teamcenturion and cch.com. (ECF 96 @ 145) March 6, 2020 Nichole Cullen sent emails from qpwblaw.com to Babich and Perkins at cch.com with copies to Gottfried and Carter directing them not to show me emails hat they send or receive. Copies were sent to bowwlaw.com Orm@teamcenturion and cch.com. That they send or receive. Copies were sent to bowwlaw.com Orm@teamcenturion and cch.com. (ECF 96 @ 146)

G. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY CARTER ULIBARRI, BOSCHUWICZ, WEXFORD, CENTURION, CORIZON SETTING FORTH DATES, EMAILS USED

¶May 28, 2019 Paul Carter sent a email to Shelby Negron azadc.gov and asked her to execute a declaration that contradicted emails she sent to and received from Jose Ramos, Julia Erwin, Betty Ulibarri and Bohuszewicz. Bohuszewicz. Had directed her to destroy my legal materials, and mail CDS to Wexford, Corizon, Centurion, and their lawyers. They contemplated the use of and did use the mail to accomplish this. (ECF 96 @ 147) April 6, 2019 Julia Erwin ADCRR sent emails to Kelly Dudley, Bohuszewicz,; explaining that Ulibarri had seized evidence against Correctional Health, Attorney general's Office and ADCRR employees on CDS. She explained these were sent to Wexford Corizon Centurion corporate offices and their lawyers, Carter and Gottfried. She asked Dudley to draft a response for me. (ECF 96 @ 148)

H. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY STRUCK, GOTTFRIED, CORIZON, WEXFORD, CENTURION SETTING FORTH DATES, EMAILS USED

¶March 6, 2020 Nichole Cullen sent emails from qpwblaw.com to Babich and Perkins at cch.com with copies to Gottfried and Carter directing them not to show me emails hat they send or receive. Copies were sent to bowwlaw.com Orm@teamcenturion and cch.com. (ECF 96 @ 149) May 6, 2018 Dr. Ayodeji Ladele sent emails to all staff that they must change patient records in order to comply with Parsons. Conlon prepared declarations that contradicted these emails. These emails were subsequently sent to Gottfried azag.gov and Struck swfirm.com (ECF 96 @ 150) March 20, 2018 Marlene Bedoya from azadc.gov sent

emails that records had been altered by Corizon. These emails were subsequently sent to Gottfried azag.gov and Struck swfirm.com (ECF 96 @ 151)

¶April 6, 2019 Julia Erwin ADCRR sent emails to Kelly Dudley, Bohuszewicz,; explaining that Ulibarri had seized evidence against Correctional Health, Attorney general's Office and ADCRR employees on CDS. She explained these were sent to Wexford Corizon Centurion corporate offices and their lawyers, Carter and Gottfried. She asked Dudley to draft a response for me. (ECF 96 @ 152) March 4, 2014 Joseph Scott Conlon rcdmlaw. Com sent email to Dr. Dimitic Catsaros ch.com asking him to sign an affidavit that contradicted the emails sent by Catsaros when he was with Wexford health July 16,2012 where he was directed by Wexford change my treatment due to the cost. Catsaros executed the affidavit. These emails were subsequently sent to Gottfried azag.gov and Struck swfirm.com (ECF 96 @ 153)

¶Pursuant to the litigation strategy adopted outside the adversarial process, to conceal and falsify evidence in prisoner litigation,, Struck and the Struck Law firm, Carter, Morrissey, Thornell, aware of these actions, continue to conceal these from the courts, thereby as a consequence of their spoliation activities, they denied me denying me the chance to have my claims heard by the courts. (ECF 96 @ 154)

I. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY WEXFORD HEALTH SOURCES, INC; WEBER GALLAGHER SIMPSON STAPLETON FIRES & NEWBY LLP; JONES SKELTON HOCHULI SETTING FORTH DATES, EMAILS USED

¶July 16, 2013 Weber Gallagher sent a email to Skelton Hochuli that training given to staff are to be released to inmates in discovery. February 3 2013 Mullenaux of Wexford sent emails to all staff that staff should just change reports required by Parsons to make it look good. (ECF 96 @ 155) January 14, 2013 Weber Gallagher sent a email to Skelton Hochuli that no policies by Wexford are to be released to inmates in discovery. (ECF 96 @ 156) January 4, 2013 Mullenaux of Wexford sent emails to all staff that inmates Wexford staff should not send inmates to hospital and in the event they die, Wexford will take care of it. (ECF 96 @ 157) October 6, 2012 Mullenaux of Wexford sent emails to all staff that inmates are not to be referred to specialists of provided essential treatment as the costs are exorbitant and Wexford s not getting paid much. (ECF 96 @ 158)

¶September 9, 2012 Weber Gallagher sent a email to Skelton Hochuli that no documents adverse to Wexford are to be released to inmates in discovery. (ECF 96 @ 159) August 18, 2012, May 21, 2013; and March 6, 2013 ADCRR informed Wexford by emails that Wexford should reexamine the reports as they appear falsified. (ECF 96 @ 160)

J. THE COMPLAINT IS VERY SPECIFIC AS TO ACTS COMMITTED BY KELLEY MORRRISSEY, DARYL JOHNSON WITH DATES AND FAXES USED

¶On July 19, 2001, September 4, 2001, August 8, 2001, August 14, 2001, September 21, 201 Morrissey and Johnson made telephone calls and obtained Affidavits from 20 ADOC employees. They directed these employees not to disclose material facts that are pertinent to loss and destruction of legal materials. Morrissey prepared and faxed these declarations. (ECF 96 @ 161) During the period January 2020 through January 2021 Corizon obtained funds authorized by 12 USC 4703a; 15 USC 636; 15 USC 9001; 15 USC 9009a; 15 USC 9011; 15 USC 9051; 21 USC 21516; 22 USC 4801; 42 USC 234; 42 USC 603; 50 USC 4532; amongst others, for the 25 contracts cancelled. (ECF 96 @ 162) In the applications to obtain these funds and subsequent reports on how these funds were used, they made materials misrepresentations, that the funds were not used, as represented, but were given as bonuses to executives, and misappropriated by senior staff. This bankruptcy does not account for these monies and Russell Perry does not explain what happened to these monies. (ECF 96 @ 163)

¶Centurion, Wexford and Naphcare continued this practice, as they are, in effect, alter egos, of each other. (ECF 96 @ 164)

THE COMPLAINT ALLEGES COMMON LAW CLAIMS

¶Both the courts and I relied on their representations, and on which there was reasonable reliance by courts and inmates. They lied and concealed the evidence violating fraudulent concealment, fraud, deceit. Their conduct constitutes common law fraud, deceit, fraudulent concealment, constructive fraud, constructive taking, unjust enrichment, breach of fiduciary duty, deceptive business practices, fraud upon the court, and conspiracy to engage in these torts. Their conduct also is a violation of my right of access to courts, as they, by filing this bankruptcy, [prevented the United States Supreme Court, Third, Ninth and Arizona federal

courts from reviewing my claims on spoliation. I would have prevailed had they not filed this bankruptcy, and allowed the courts, to review my claims. (ECF 96 @ 252) Defendants had a legal obligation to disclose the evidence in connection with existing or pending litigation. They did not disclose material evidence, intentionally withholding, altering, destroying the evidence to disrupt frustrate prisoner litigation. As consequence the evidential record did not contain the relevant evidence. (ECF 96 @ 253)

THE COMPLAINT ALLLEGES A CONSPIRACY

¶Defendants knowingly intentionally made intentional deliberated decisions to disobey disregard the law. They were unaware of all the participants, but were aware of the essential nature and general scope of the conspiracy, which was to engage in the conduct above , to frustrate my litigation, and deny me access to evidence favorable to me and inculpatory to themselves. (ECF 96 @ 254) Defendants pursued the object of the conspiracy by performing what their part of the conspiracy was and another defendant performed another part, willfully agreeing to participate with the common design to deprive me of the rights I complain of in this litigation. (ECF 96 @ 255)By and through the use of the unlawful means in this complaint, through the overt acts in this complaint, which overt acts were committed in furtherance of the conspiracy discussed above, each of them ensured the conspiracy continues and succeeds, which conspiracy is open ended and continues to this date. (ECF 96 @ 256) Each of these Defendants are professionals who under no set of circumstances did not know that the wrongs I complain of were not unlawful. THEY REFUSED TO SPEAK UP OR DISASSOCIATE THEMSELVES FROM THESE ACTS. It is difficult to understand that with all this professional talent, why one of them would not blow the whistle. (ECF 96 @ 257) ¶Each individual willfully agreed to become members of the conspiracy agreeing to participate directly/indirectly in the conspiracy. They knew of the conspiracies to deny me equal protection, equal privileges, had the power to prevent or aid in the prevention of the commission of the conspiracies, could have with reasonable diligence, but neglected or refused to prevent the conspiracies. (ECF 96 @ 258) These acts or activities in paragraphs were authorized, requested, commanded, ratified or recklessly tolerated by the unlawful conduct of the other. The Directors, higher management, agents performed, authorized, requested, commanded, ratified, or recklessly tolerated the unlawful conduct of the agents. (ECF 96 @ 259)

¶When Defendants obtained signatures by deception with the intent to defraud by knowingly misrepresenting or omitting facts material to the transaction in the declaration, they committed forgery. (ECF 96 @ 260) When Defendants pursuant to their scheme or artifice to defraud, knowingly obtained any benefit, by means of false or fraudulent pretenses, representations, or material omissions, they engaged in conduct that is fraudulent. (ECF 96 @ 261) As Defendants knew that the assets of the assets of the Correctional Health enterprise and the Debtor, involved in the financial transactions, represented some form of unlawful activity, by conducting or attempting to conduct the financial transactions, which in fact involves some form of unlawful activity, with the intent to carrying on the unlawful activity. (ECF 96 @ 262)

¶Defendants knowing that the transaction was designed in whole or part to conceal or disguise the nature or control of proceeds of the specified unlawful activity, or to avoid the transaction reporting requirements under state or federal law, partook in the conduct. (ECF 96 @ 263)

THE COMPLAINT ALLEGES PARTICIPATION IN THE OPERATION AND MANAGEMENT OF THE AFFAIRS OF THE ENTERPRISE

THE PATTERN OF RACKETEERING ACTIVITY

¶Defendants authorized, requested, commanded, ratified recklessly tolerated the unlawful conduct of the other. The directors, high management, agents, performed, authorized, requested, commanded, ratified or recklessly tolerated the unlawful conduct as proscribed by ARS 13-2314.04.E and 13-2301.D.9 (ECF 96 @ 293) These acts are related to each other, or to a common external organizing principle, including the affairs of the Correctional Health enterprise. They have same or similar purposes, results, participants, or victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics. They are continuous, or exhibit the threat of being continuous. (ECF 96 @ 294)

¶These acts or activities were authorized, requested, commanded, ratified or recklessly tolerated by the unlawful or racketeering conduct of the other. The directors, higher management, agents performed, authorized, requested, commanded, ratified or recklessly tolerated the unlawful conduct of the agents. (ECF 96 @ 295) When Defendants obtained signatures by deception with the intent to defraud by knowingly misrepresenting or mitting fact material to the transactions in the declaration(s), they committed forgery proscribed and

prohibited by ARS 13-2005.A, as set forth in the unlawful conduct predicate acts. The actual intent was to obstruct justice, in a manner that is likely to obstruct justice, interfere with the administration of justice, with specific intent to corruptly influence, obstruct or impede justice, or the due administration of justice. (ECF 96 @ 296) Defendants are each employed by or associated with an enterprise, the Correctional Health enterprise, and did conduct or participate, directly or indirectly, in the conduct of the affairs of the Correctional Health enterprise, through a pattern of unlawful racketeering activity within the meaning of 18 USC 1961(1)(B), 1962(D), 1961(5), 1962(c), ARS 13-2314.04 (ECF 96 @ 300)

¶Defendants aided and abetted , and solicited each other to conspire, or attempt to violate 18 USC 1962(d), ARS 23-1002.A.C to violate 18 USC 1964(c), ARS 13-2314.04, as proscribed by ARS 13-1001.A; 1002.A (ECF 96 @ 301) By reason of the violation of 18 USC 1962(d), ARS 13-2314.04, by Defendants I have been injured in an as yet undetermined amount, believed to be not less than approximately $30,000,000 within the meaning of 18 USC 1964(c) and ARS 13-2314.04 (ECF 96 @ 302) By knowingly that the transaction was designed in whole or part to conceal or disguise the nature or control of proceeds of the specified unlawful activity, or to avoid the transaction reporting requirements under state and federal law, Defendants engaged in conduct proscribed by 18 USC 1956a(B)(1)(II) (ECF 96 @ 305)

¶Defendants maintained illegal control of the Correctional Heath enterprise when they, through racketeering unlawful acts activities, or its proceeds, acquired or maintained, by investment or otherwise, control of the Correctional Health enterprise. Defendants conducted illegally conducting an enterprise, when they, employed by or associated with Correctional Health enterprise,, conducted its affairs through racketeering unlawful acts activities, or participated directly and or indirectly, in the conduct of the affairs of the Correctional Health enterprise, with knowledge that it is conducted through racketeering unlawful acts activities, proscribed by ARS 13-2312.A.B (ECF 96 @ 306) Defendants are each employed by associated with an enterprise, the Correctional Health enterprise, and did conduct or participate, directly or indirectly, in the conduct of the affairs of the Correctional Health enterprise, through a pattern of unlawful racketeering activity within the meaning of 18 USC 1961(1)(B), 1962(D), 1961(5), 1962(c), ARS 13-2314.04. (ECF 96 @ 308)

¶Defendants Corizon, Wexford, Centurion, Naphcare, Shinn, Ryan entered into cooperation agreements with each other thereby were each by virtue of these cooperation agreements, employed by or associated with an enterprise, the Correction Health enterprise, and did conduct or participate, directly or indirectly, in the conduct of the affairs of the correctional

Health enterprise, through a pattern of unlawful racketeering activity within the meaning of 18 USC 1961(1)(B), 1962€, 1961(5), 1962(c), ARS 13-2314.04, ARS 13-2301.D.1(ECF 96 @ 314)

¶Defendants are each employed by or associated with an enterprise, the Correctional Health enterprise, conspired within the meaning of 18 USC 1962(d), ARS 13-1003.A to violate 18 USC 1964(c), ARS 13-2314.04 that is, said Defendants did conspire, directly or indirectly, in the conduct of the affairs of the Correctional Health enterprise, through a pattern of unlawful racketeering activity within the meaning of 18 USC 1961(1)(B), 1962(D), 1961(5), 1962(c), ARS 13-2314.04 (ECF 96 @ 315) Defendants maintained illegal control of the Correctional Health enterprise when they, through racketeering unlawful acts activities, or its proceeds, acquired or maintained, by investment or otherwise, control of the Correctional Health enterprise. (ECF 96 @ 316) Defendants conducted illegally conducting an enterprise, when they, employed by or associated with Correctional Health with Correctional Health enterprise, conducted its affairs through racketeering unlawful acts activities proscribed by ARS 13-2312.A.B (ECF 96 @ 317)

THE COMPLAINT ALLEGES A CLAIM FOR DECLARATORY RELIEF

¶Defendants in advance of litigation, as a matter of their practice and policy, engineered the scheme to deploy prefabricated defenses in prisoner litigation. They used permissible procedural devises in bad faith, rigging the game from inception. They ensured truthful untainted evidence is not disclosed if inculpatory and favorable to inmates. They created alternative evidence/facts, not mischaracterizing them. They assembled template stock pleadings, making false sworn/unsworn statements, providing false incorrect expert/consultant reports, creating false exonerating evidence. (ECF 96 @ 326) Pursuant to foregoing they intentionally destroyed, withheld the foregoing material evidence duty bound to disclose, that prisoners like me cannot obtain from alternative sources. These are reports, emails, investigations, faxes, employee misconduct reports, policies, directives, failure to follow policies, and the evidence discussed above. (ECF 96 @ 327)

¶Defendants made material misrepresentations as to past and current facts/policies/directives, with knowledge or belief of their falsity, with an intention that courts and inmates shall rely on. Both the courts and I relied, and on which there was reasonable reliance by courts and inmates. They lied and concealed the evidence violating fraudulent

concealment, fraud, deceit. Their conduct constitutes common law fraud, deceit, fraudulent concealment, constructive fraud, constructive taking, unjust enrichment, breach of fiduciary duty, deceptive business practices, fraud upon the court, and conspiracy to engage in these torts. Their conduct also is a violation of my right of access to courts, as they, by filing this bankruptcy, [prevented the United States Supreme Court, Third, Ninth and Arizona federal courts from reviewing my claims on spoliation. I would have prevailed had they not filed this bankruptcy, and allowed the courts, to review my claims. (ECF 96 @ 328) Defendants had a legal obligation to disclose the evidence in connection with existing or pending litigation. They did not disclose material evidence, intentionally withholding, altering, destroying the evidence to disrupt frustrate prisoner litigation. As consequence the evidential record did not contain the relevant evidence. (ECF 96 @ 329)

¶ Tripati seeks Declaratory judgment that this bankruptcy proceedings do not bar claims for spoliation of evidence by Tripati, and that the bankruptcy proceedings were filed to defraud Tripati and other victims of spoliation. (ECF 96 @ 330) Tripati further seek additional declaratory judgment that the Defendants breached their fiduciary duties as to Tripati, by engaging in spoliation and then using the bankruptcy process to prevent its adjudication. (ECF 96 @ 331)

THE COMPLAINT ALLEGES A CLAIM FOR DECLARATORY RELIEF AGAINST LIABILITY INSURERS

¶But for the failure of Liability Insurers to follow their policies, guidelines, standards, Defendants would not have engaged in the misconduct set forth above. (ECF 96 @ 334) As such, policy limits and policy aggregate limits should not apply, because, by their failures and lack due diligence, they allowed the misconduct. (ECF 96 @ 335)

¶Liability Insurers by their policies and bonds, enabled Defendants to engage in the misconduct. (ECF 96 @ 336) Without their coverage Ulibarri would not be able to have contracts with Arizona. Without their policies and bonds Naphcare, Corizon, Wexford and Centurion would not be in a position to provide inmates with healthcare. (ECF 96 @ 337)

¶Liability Insurers have allowed Naphcare, Corizon, Wexford, Centurion and Ulibarri to perform a state function, to the most vulnerable population. (ECF 96 @ 338) Prisoners must rely on the State to provide healthcare and access to the courts. (ECF 96 @ 339)

¶The DeShaney duty to protect doctrine, mandates Liability Insurers screen policies bonds coverage to providers of services in prisons and jails, for strict compliance with their standards, insurance standards. (ECF 96 @ 340) They must be ordered to require, whenever any policyholder that provides services to prisoners, that the policyholder, provide a copy of the coverage and a claim form for any claims. (ECF 96 @ 341) These claims must be directly reviewed by Lability Insurers. (ECF 96 @ 342)

¶The Liability Insurers policies and bonds, violate DeShaney. The injury was foreseeable. (ECF 96 @ 343)

THE SUPREME COURT LOWERED THE BAR

AND CREATED THE OPTION OF RECOVERY

EVEN WHERE THEY HAD NOT BEEN DIRECTLY LIED

¶In *Husky International Electronics, Inc. v. Ritz, 136 S. Ct. 1581 (2016)* the Supreme Court held that actual fraud does not require a misrepresentation to the creditor. The Court thereby created the option of recovery for creditors under Section 523(a)(2)(A) even where they had not been directly lied to, as long as the debtor still implemented actual fraud in relation to its debt.

¶The Supreme Court opened the door to creditor recovery under Section 523(a) (2) (A) in situations where a debtor might be innocent but vulnerable, such as prisoners and Tripati. This overly wide net is a result of "badges of fraud," a set of objective factors courts and state legislatures have used to evaluate fraud in bankruptcy. See, e.g., **TEX. BUS. & COM. CODE ANN. § 24.005 (West 1987)** (integrating badges of fraud into its exception to discharge statute).

THIS BANKRUPTCY WAS FILED IN BAD FAITH

¶ *In re LTL Mgmt, LLC, 64 F4th 84, 110 (3rd Cir. 2023)* the court dismissed the bankruptcy, finding it was filed in bad faith, with no valid bankruptcy purpose. This bankruptcy concerns the unprecedented use of the Texas Two Step because the Debtor placed all corporate liability in a defunct entity with no assets, and then having that entity declare bankruptcy, which the Bankruptcy Code was not designed for, as it is fraud under Husky.

¶ *In re "Placid oil Co, 463 BR 803 (Bankr. N.D.TX 2012) reads*

" Under the Bankruptcy Code "claim" is defined as "a right to payment, whether or not such right is reduced to a judgment ...or unsecured" 111 USC 101(5) (10). "The legislative history of the Bankruptcy Code indicates that Congress intended the term "claim" "to be given broad interpretation so that all legal obligations of the debtor, no matter how remote or contingent will be able to be dealt with in the Bankruptcy case"

THE COMPLAINT PROPERLY ASSERTS CLAIMS AGAINST DEFENDANTS FOR FRAUD, FRAUDULENT RETENTION, FRAUDULENT TRANSFER, FRAUDULENT CONVEYANCE, FRAUD, DECEIT, FRAUDULENT CONCEALMENT, CONSTRUCTIVE FRAUD, CONSTRUCTIVE TAKING, UNJUST ENRICHMENT, BREACH OF FIDUCIARY DUTY, DECEPTIVE BUSINESS PRACTICES, FRAUD UPON THE COURT, AND CONSPIRACY TO ENGAGE IN THESE TORTS.

¶ Under Husky, the complaint properly sets forth claims for Fraud, fraudulent retention, fraudulent transfer, fraudulent conveyance, fraud, deceit, fraudulent concealment, constructive fraud, constructive taking, unjust enrichment, breach of fiduciary duty, deceptive business practices, fraud upon the court, and conspiracy to engage in these torts.

THE COMPLAINT STATES A PLAUSIBLE CLAIM FOR ARIZONA AND FEDERAL RICO

UNDER ARIZONA LAW THERE IS A VIABLE RICO CLAIM UNDER HUSKY FOR VIOLATION OF INTANGIBLE RIGHTS

¶Defendants deprived me and others of a benefit, defined as anything of value or advantage, present or prospective, under ARS 13-105.5 the tangible evidence or intangible rights to have the court decide my claims on spoliation based on all the evidence, is property within the meaning of ARS 13-105.37, which Defendants deprived me of. All this was accomplished through the system of emails, through computer networks, and the use of the United States Mail. (ECF 96 @ 248)

¶By obstructing justice, acting in a manner to obstruct justice, to influence the due administration of justice, interfering in the administration of justice, with specific intent to

corruptly influence, impede or obstruct the administration of justice by implementing the policy of making others lie, as set forth in this complaint, Defendants injured me. They foresaw the evidence was for use in official proceedings for violation of federal rights, satisfying the federal nexus set forth in United States v Causey, 183 F3d 407(5th Cir. 1999)Their corruption included the concealment of evidence, submission of false statements under penalty of perjury, and making false statements in this bankruptcy and judges deciding federal claims. (ECF 96 @ 249)

¶Defendants in advance of litigation, as a matter of their practice and policy, engineered the scheme to deploy prefabricated defenses in prisoner litigation. They used permissible procedural devises in bad faith, rigging the game from inception. They ensured truthful untainted evidence is not disclosed if inculpatory and favorable to inmates. They created alternative evidence/facts, not mischaracterizing them. They assembled template stock pleadings, making false sworn/unsworn statements, providing false incorrect expert/consultant reports, creating false exonerating evidence. They intentionally destroyed, withheld the foregoing material evidence duty bound to disclose, that prisoners like me cannot obtain from alternative sources. These are reports, emails, investigations, faxes, employee misconduct reports, policies, directives, failure to follow policies, and the evidence discussed. (ECF 96 @ 250)

¶Defendants made material misrepresentations as to past and current facts/policies/directives, with knowledge or belief of their falsity, with an intention that courts and inmates shall rely on. Appendix A, B, C and D show Defendants have the same or similar business model and the representations made by these Defendants in these documents, are in fact, materially false, in substantial part. (ECF 96 @ 251)

¶Property in Arizona can be tangible or intangible ARS 13-2301.E.12 and 13-105(37) Property can be anything of value or advantage, present or prospective in Arizona. *State v Henry, 68 P.3d 455 (2003)*

¶ *Daggett v Jackie Fine Arts, 733 P.2d 1142 (1986)* clarifies that in Arizona committing predicate acts is all that is required to find one liable for RICO. Arizona does not require one maintain an interest or control of an enterprise.

¶When as in this case some trick is used *State v Suarez, 670 P.2d 1983),* or when there are half-truths or concealment *State v Poundstone, 880 P.2d 731 (1994),* though not fraudulent on its face, the conduct is fraudulent schemes, and a RICO predicate in Arizona. *Franzi v Koedyker, 758 P.2d 1303 (1985),* which is interpreted very broadly. *State v Griffin, 483 P.3d 273 (2021)*

¶Reliance is not necessary *State ex rel Corbin v Tolleson, 773 P.2d 490 (1989)*

BENEFIT WAS OBTAINED BY CONTRACTUAL RELATIONSHIPS

¶ Benefit Was Obtained by Contractual Relationships between Debtor and Defendants and the enterprise. *George v Blue Diamond Corp, 718 F Supp 539, 549(WD La. 1989)* the relationship Defendants and he enterprise is such that without their assistance, without their committing the predicate acts, without the liability coverage, the enterprise cold not operate. *Landry v Airline Pilots Assn, 901 F2d 404 (5th Cir. 1989)*

¶These acts show the activities of the enterprise are continuous *Whelan v Winchester Production Corp, 319 F.3d 225, 230 (5th Cir. 2003)*

STANDING EXISTS FOR THE CLAIMS

¶ *Old Times Enters Inc v Intl Coffee Corp, 862 F2d 1213 (5th Cir. 1989) Bridge v Phx Bond & Indemn 553 US 639, 1 (2008)* causation standing is satisfied by the fact that after this bankruptcy was filed, the courts were unable to review the spoliation claims.

¶ As Liability Insurers were paid a premium, to depart from their industry practices, and to bind the Debtor so that the Debtor could engage in the fraudulent activities, as Defendants received bonuses far above their salaries and promotions, for their illicit activity, they received income under 1962(a) *Tyler v O'Neil, 994 F Supp. (E.D. Pa 1998) Miller Hydro Group v Popovitch, 793 F Supp 24 ME 1992).* Defendants accumulated wealth which they would not have, but for the racketeering activity. *LaSallle Bank Lake View v Seguban, 937 F Supp 1309 (D ll 1996) Azurite Corp v Master & Co, 730 F Supp 571 (SD NY 1990) Hennings v Barian, 822 F2d 688 7th Cir. 1987)*

¶ *Russello v United States, 446 US 16 (1983)* states "every property interest, including a right of profits or proceeds, may be described as an interest in something." The out of the normal compensation to liability insurers and Defendants satisfies the 1962(b) standing.

¶ The Fifth Circuit in *National Enters Inc v Mellon Fin Services 847 F2d 25 (5th Cir. 1998)* requires harm by the predicate acts as conferring1962 (c) standing which is met. See also *Sedima SPRL v Index Co, 473 US 475 (1985)*

¶ The 1962(d) standing set forth in *United States v Elliott, 571F.2d 880, 902 (5th Cir. 1978)* requires "the object of a RICO conspiracy is to violate a substantive RICO provision here, to conduct or participate in the affairs of the enterprise through a pattern of racketeering activity." This is satisfied.

¶The bankruptcy standing required by *Ocean Energy II, Inc. v Alexander & Alexander, Inc, 868 F.2d 740 (5th Cir. 1989)* is met, because transferring assets and to assist in the transferring of assets, to shield it from the estate is cognizable under RICO and met. *Ashland Oil v Arnett, 875 F2d 1271 (7th Cir. 1989)*

RELATIONSHIP OF PREDICATE ACTS TO SOME ORGANIZING PRINCIPLE MAKING THEM PART OF COMMON PLAN

¶Valitas and Becken O'Keefe, the financiers for the enterprise are the external organizing principle. They with M2 agreed to form these Texas mergers, divert assets and file Chapter 11, making millions. Liability insurers gave them coverage.

HOW PREDICATE ACTS POSE A THREAT TO CONTINUED CRIMINAL ACTIVITY

¶ The acts are continuing and since the filing of the adversary, I received some emails showing he following predicate acts.

WHEN STATES AUTHORITIES CONFIRM THEY GAVE PLAINTIFF THE ADDRESS TO SERVE M2, THE ACTUAL NOTICE AND LACK OF PREJUDICE, SHOW SERVICE IS PROPER

¶As Plaintiff is in custody, he has to[5] rely on state authorities for information. In the attached letter they confirm that they searched and gave Plaintiff the address in Brickell Avenue where to serve M2.(EX C) This reliance on state authorities, constitute excusable neglect within the meaning of *Austin v Big Ten Capital Management LLC (In re Austin) 2006 Banker. Lexis 2471 (E.D. Va. Sept, 21, 2006)*

¶This fact combined with the lack of prejudice, and the fact that M2 has received actual notice of these proceedings, show good cause to excuse service at the correct address.

¶Under these facts, exercise of personal jurisdiction comports to due process. *In re Longoria, 2009 Banker. Lexis 64 (WD Tex 2009)*

¶According to *Tennessee Student Assistance Corp v Hood, 541 US 540 (2004)* this court must consider the substance of the adversary filed, and not the title of the document. The substance of the adversary is a claim against the estate of the Debtor and those whom it trusted. Husky.

¶As BR 7004 abridges the rights under Tile 11, it offends 28 USC 2075, as applied, because service of summons is not a requisite to lodge claims against the estate.

Hence pp 8-9 ECF 432 should be overruled.

¶ Under the Rules, there is no need to prove the summons and complaint were received only that they were mailed. *Rebein v Adkins (III Inc) 2006 Bankr. Lexis 707 (Bankr. Kansas 2006)* see also *Flores v Safadi (In re Safadi) 2010 Bankr. Lexis 1979 (Bankr. D Ariz. 2010)*

AS THIS IS NOT AN APPEAL OR A PROCEEDING IN ~~FOR A~~ FORMA PAUPERIS, 28 USC 1915(a)(3) DOES NOT APPLY

¶ As I have paid the filing fees and this is not an appeal in forma pauperis, 28 USC 1915(a)(3) does not apply. (EX B 5/22/23)

¶ I have read the28 USC 1915(a)(3) and it reads :

> "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."

¶ Wexford cites *In re Hall, 2008 Bankr. Lexis 4903 (Bankr. WD Tex. 2008) and Valente v Donahue, 2004 US Dist. Lexis 11786 (N.D.Ill. 2004)* for this proposition.

¶ As I paid the filing fees, this argument should be disregarded.

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[5] It should be noted Plaintiff received these summons on May 10, 2023 and served these on May 14, 2023. (Attached Mail Log by State) (EX D)

THE COMPLAINT ALLEGES THAT THE EQUITABLE DOCTRINE OF JUDICIAL ESTOPPEL MANDATES REIEF

¶The equitable doctrine of judicial estoppel has long been applied by U.S. Courts seeking to prevent litigants from playing "fast and loose" in litigation. New Hampshire v. Maine, 532 U.S. 742, 749–50 (2001) (collecting circuit decisions). Somewhat unique among the equitable estoppel doctrines, the central purpose of judicial estoppel is to protect the integrity of the legal system itself. In re Coastal Plains, Inc., 179 F.3d 197, 205 (5th Cir. 1999) (characterizing judicial estoppel as protecting "the judicial system, rather than the litigants"). Stated simply, the doctrine of judicial estoppel bars a litigant from proceeding with a defense which is at odds with a position asserted by the litigant in a prior legal proceeding. While jurists and scholars have identified numerous objectives of the doctrine, at its core, the doctrine is about guarding against litigant chicanery. (ECF 96 @79 through 83)

A. POSITION OF FACT IN THE CONTEXT OF JUDICIAL ESTOPPEL

¶The Supreme Court in Cleveland 526 U.S. 795 (1999) defined a position of "fact" in the context of judicial estoppel when it stated that a "purely factual matter[ ]" is of the type: "'The light was red/green,' or 'I can/cannot raise my arm above my head.' In general, facts are the "who, when, what, and where. They involve only questions of what actually occurred and require no knowledge of any legal standard. Jay E. Rosenblum, The Appropriate Standard of Review for a Finding of Bad Faith, 60 Geo. Wash. L. Rev. 1546, 1569-70 (1992). Thomas v. Gen. Motors Acceptance Corp., 288 F.3d 305, 307 (7th Cir. 2002)

¶For instance, in *Jett v. Zink, 474 F.2d 149, 154-55 (5th Cir. 1973)* the court applied judicial estoppel to a party's contradictory position that a particular action initially characterized as in personam was quasi in rem.

B. THE POSITION OF FACTS IN THIS MATTER ARE:

FIRST POSITION OF FACT

¶ Exhibit A shows that February 16, 2023 I filed a motion to recall the mandate docketed February 21, 2023. Defendants did not ask the Third Circuit to decide the claims against them, except the Debtor. (ECF 96 @68)

¶ Because they did not ask the Third Circuit to review my claims against them, they cannot now argue that this court must not review the clams.

SECOND POSITION OF FACT

¶"January 30, 2013 Mark Hale, the CEO of Wexford signed a contract in Pittsburgh, agreeing to cooperate with Corizon Health. This contract was scanned and signed on the same date by Denel Pickering for the ADCRR in Phoenix. Weber Gallagher, Jones Skelton, Struck and Gottfried were involved." (ECF 96 @ 62)

¶"Steve Rector CEO of Corizon on July 20, 2018 signed an agreement to cooperate with Centurion in Brentwood, Tennessee and it was scanned and signed on the same date by Ken Sanchez in Phoenix for ADCRR. Struck, Renaud Drury, Quintairios Prieto and Gottfried were involved. "(ECF 96 @ 63)

¶"Steven H Wheeler, CEO of Centurion from Vienna, Virginia on May 25, 2019 signed a cooperation agreement agreeing to cooperate with Corizon. The document was cosigned in Arizona by Kenneth P. Sanchez, for ADCRR. Broening Oberg, Struck and Gottfried were involved." (ECF 96 @ 64)

¶"Bradford McLane CEO Naphcare on May 24, 2022 signed in Alabama a document agreeing to cooperate with Centurion and on the same date it was scanned and signed by Kenneth P. Sanchez, ADCRR in Phoenix. "(ECF 96 @ 65)

¶ All through the litigation in Pittsburgh and Arizona Defendants denied any such cooperation agreement existed.

¶ In CIV 18-0066RM Corizon Quintairos Prieto Wood & Boyer; Nichole Rowey; aggressively during the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. CR 186, 187, 188, 191, 195, 200, 205, 208, 209, 210, 212, 217, 220, 234, 236, 237, 238, 240, 241, 242, 245, 246, 248, 249, 250, 251, 255, 256, 257, 314, 318, 337, 352, 363, 383, 392, 414, 421, 425, 427, 434 (ECF 96 @ 81)

¶In CIV 13-0615 TUC DCB Corizon through Joseph Scott Conlon ;Renaud Cook Drury Mesaros PA During the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. (ECF 96@ 82)

¶In CIV 13-0140 TUC DCB Wexford Health Sources, Inc; Weber Gallagher Simpson Stapleton Fires & Newby LLP; Jones Skelton Hochuli During the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. (ECF 96@83)

C. THE CHANGE IN THE WINDS OF SELF INTEREST ARE:

¶It proceeds from the premise that "truth is not a weather vane. It does not veer when the winds of self-interest change. It remains constant." Thus, it follows from the absolute nature of truth that once a party has taken a position under oath, "a court has the right, if not the duty, to hold that party to that position, ... by assuming in his behalf utter good faith in the first instance, to reproduce such assumption later, even to his hurt." If a party is free in later proceedings to vary his sworn position, then in one instance the judicial oath is violated and a lie is permitted to enter the judicial process. The absolute rule asserts that there will always be but one "true" position on a given set of facts, and hence no deceit can tarnish the public's perception of the courts as a truth-seeking institution..

¶One influential student work Rand G. Boyers, Comment, Precluding Inconsistent Statements: The Doctrine of Judicial Estoppel, 80 Nw. U. L. REV. 1244, 1254 (1986) (footnotes omitted) describes the absolute form of judicial estoppel as activated by a concern for truth: The paramount attribute of this form of judicial estoppel is that it operates to prevent even the taint of untruth from entering the judicial process. One function of judicial proceedings is "to seek truth"; this rule places truth in a preeminent position.

D. HOW DEFENDANTS CHANGED THE TRUTH AS THEIR SELF INTERESTS CHANGED

JUDICIAL ESTOPPEL PREVENTS PARTIES FROM PLAYING FAST AND LOOSE WITH THE COURTS WHICH IS A THREAT TO COURTS' INTEGRITY

AN INCONSISTENT POSITION IN THE SAME OR A PRIOR PROCEEDING, WHETHER OR NOT ADOPTED BY THE COURT, IS SUBJECT TO JUDICIAL ESTOPPEL

¶ In New Hampshire v. Maine, 532 U.S. 742 (2001) a nonbankruptcy case, the Supreme Court established these "factors [that] typically inform the decision whether to apply the doctrine in a particular case," be that case a bankruptcy case or otherwise:

- a party has taken a position in a legal proceeding that is "clearly inconsistent" with a position that party has taken previously in either the same or a separate legal proceeding; see Cotter v. Skylands Cmty. Bank (In re Cotter), Bankr. No. 08-12504, Adversary No. 11-01619, 2011 WL 5900811, at *6-7 (Bankr. D.N.J. Oct. 24, 2011).
- that party "has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create 'the perception that either the first or the second court was misled;'" and
- that party "would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped."

¶Despite articulating this list of factors, the Supreme Court conceded that "[t]he circumstances under which judicial estoppel may appropriately be invoked are probably not reducible to any general formulation of principle." Id. at 750 (quoting Allen v. Zurich Ins. Co., 667 F.2d 1162, 1166 (4th Cir. 1982)). The Court therefore emphasized: "In enumerating these factors, we do not establish inflexible prerequisites or an exhaustive formula for determining the applicability of judicial estoppel. Additional considerations may inform the doctrine's application in specific factual contexts." Id. at 751; accord Burnes v. Pemco Aeroplex, Inc., 291 F.3d 1282, 1286 (11th Cir. 2002

¶ If a party takes an inconsistent position in the same or a prior proceeding, and a court had previously adopted the former position, then an opposing party can raise judicial estoppel as a defense or the court may dismiss the case sua sponte. "[Judicial estoppel] is not only limited to asserting inconsistent positions in the same litigation, but also is appropriate to bar litigants from making incompatible statements in two different cases." Schneider v. Unum Life Ins. Co. of Am., No. CV 05-1402-PK, 2008 WL 109065, at *4 (D. Or. Jan. 8, 2008) (citation omitted).

¶As the Fifth Circuit has explained, the doctrine of judicial estoppel protects the courts "by 'prevent[ing] parties from playing fast and loose with the courts to suit the exigencies of self-interest.' ", Browning Mfg. v. Mims (In re Coastal Plains, Inc.), 179 F.3d 197, 205 (5th Cir. 1999) (quoting Brandon v. Interfirst Corp., 858 F.2d 266, 268 (5th Cir. 1988)).

¶Jurists have described the threat to courts' integrity as occurring when litigants "'play[ ] fast and loose with the courts to suit the exigencies of self-interest' In re Coastal Plains, Inc., 179 F.3d 197, 205 (5th Cir. 1999) (quoting Brandon v.Interfirst Corp., 858 F.2d 266, 268 (5th Cir. 1988)) or "'abus [e] the judicial process through cynical gamesmanship, achieving success on one position, then arguing the opposite to suit an exigency of the moment.' " Warda v. Comm'r, 15 F.3d 533, 538 (6th Cir. 1994) (quoting Teledyne Indus., Inc. v. NLRB., 911 F.2d 1214, 1218 (6th Cir. 1990)). Courts maintain this rationale despite the windfall benefits accruing to some parties who successfully assert judicial estoppel.

¶ Similar statements abound, and are often made in judicial estoppel cases. As honesty is a recurrent theme, the judicial estoppel cases address the following important question: What should be done when a defendant is dishonest . See, e.g., New Hampshire v. Maine, 532 U.S. 742, 750-51 (2001) ("[C]ourts regularly inquire whether the party has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled.") (internal quotations omitted); United States v. Newell, 239 F.3d 917, 921 (7th Cir. 2001); cf Hossaini v. W. Mo. Med. Ctr., 140 F.3d 1140, 1143 (8th Cir. 1998) (observing the minority view that judicial estoppel does not require acceptance of a position).

E. THE FAST AND LOOSE CONDUCT

DEFENDANTS HAVE UNCLEAN HANDS AT EVERY STAGE OF THESE PROCEEDINGS, BECAUSE THEY DID NOT ALLOW THE THIRD CIRCUIT TO DECIDE SPOLIATION CLAIMS AGAINST THEM

¶Like many equitable remedies, one may not invoke judicial estoppel with unclean hands, Schneider v. Unum Life Ins. Co. of Am., No. CV 05-1402-PK, 2008 WL 109065, at *7 n.3 (D. Or. Jan. 8, 2008); Mason v. Lowe (In re Mason), Bankr. No. 11–10251, Adversary No. 11–1042, 2012 WL 733834, at *7-9 (Bankr. E.D. Tenn. Mar. 6, 2012) such as where the party seeking estoppel has suborned perjury in a prior, related proceeding Mason, 2012 WL 733834, at *8.

F. THE UNCLEAN HANDS ARE:

COUNSEL ARE AWARE THAT CONDUCT BEFORE AND DURING LITIGATION IN COURT FILINGS RETURN TO HAUNT BOTH THE ATTORNEYS AND THEIR CLIENTS UNDER THE DOCTRINE OF ESTOPPEL

¶ Conduct before and during litigation in court filings will haunt corporate clients and their attorneys. Travelers Indem. Co. v. Bailey, 557 U.S. 137 (2009); Jones v. Estate of Cole, 483 F. App'x 468 (10th Cir. 2012); Adelphia Recovery Trust v. HSBC Bank USA (In re Adelphia Recovery Trust), 634 F.3d 678 (2d Cir. 2011 Charles Alan Wright, Law Of Federal Courts 722-23 (5th Ed. 1994) (Citing D. Allan Vestal, Rationale Of Preclusion, 9 ST. Louis U. L.J. 29 (1964)).

¶ This danger is especially acute in the bankruptcy context because estoppel and preclusion are partially uncodified common law doctrines. Christopher Klein et al., Principles of Preclusion and Estoppel in Bankruptcy Cases, 79 Am. Bankr. L.J. 839 (2005); see also, e.g., Theresa M. Beiner & Robert B. Chapman, Take What You Can, Give Nothing Back: Judicial Estoppel, Employment Discrimination, Bankruptcy, and Piracy in the Courts, 60 U. MIAMI L. REV. 1 (2005); Robert F. Dugas, Note, Honing a Blunt Instrument: Refining the Use of Judicial Estoppel in Bankruptcy Nondisclosure Cases, 59 VAND. L. REV. 205 (2006); Eric Hilmo, Note, Bankrupt Estoppel: The Case for a Uniform Doctrine of Judicial Estoppel As Applied Against Former Bankruptcy Debtors, 81 Fordham L. Rev. 1353 (2012)

G. THE PRIOR INCONSISTENT POSITIONS ARE

AS BOTH COUNSEL AND DEFENDANTS HAVE NOT MADE FAITHFUL REPRESENTATIONS TO THE COURTS JUDICIAL ESTOPPEL APPLIES

¶Judicial estoppel differs in relevant respects from claim preclusion, commonly known as res judicata. Whereas claim preclusion is "designed to protect the finality of judgments," judicial estoppel "is concerned not with the repose of individual claims but with the ability of courts to render their decisions based on faithful representations by counsel." Adelphia Recovery Trust v. HSBC Bank USA (In re Adelphia Recovery Trust), 634 F.3d 678, 697 (2d Cir. 2011).

¶ Unlike res judicata, judicial estoppel does not require a "final judgment" in a prior proceeding to be invoked. Hansford v. Bank of Am., Civ. Action No. 07-4716, 2008 WL 4078460, at *9 n.5 (E.D. Pa. Aug. 22, 2008) ("[B]ecause the doctrine aims to protect the court's interest, rather than any individual party's, it is not necessary that the two proceedings . . . be related . . . ." (emphasis added)). ("There must be a discernible connection between the two proceedings. . . . [A] court may not invoke judicial estoppel against a party who has engaged in misconduct in a separate proceeding if that inquire whether "the risk of inconsistent results with its impact on judicial integrity is certain." Adelphia Recovery Trust v. HSBC Bank USA (In re Adelphia Recovery Trust), 634 F.3d 678, 696 (2d Cir. 2011) (quoting DeRosa v. Nat'l Envelope Corp., 595 F.3d 99, 103 (2d Cir. 2010)).

H. THE UNFAITHFUL REPRESENTATIONS TO THE COURTS BY DEFENDANTS

JUDICIAL ESTOPPEL PROTECTS THE INTEGRITY OF THE JUDICIAL SYSTEM, NOT THE LITIGANTS, SO IT DOES NOT REQUIRE DETRIMENTAL RELIANCE

¶Unlike equitable estoppel, judicial estoppel is intended to protect the integrity of the judicial system, not the litigants. E.g., Wells Fargo Bank, N.A. v. Oparaji (In re Oparaji), 698 F.3d 231, 235 (5th Cir. 2012) (citing Browning Mfg. v. Mims (In re Coastal Plains, Inc.), 179 F.3d 197, 205 (5th Cir. 1999)). Accordingly, whether any party "relie[s] on [the position advanced by the party sought to be estopped] is irrelevant because detrimental reliance is not a required element of judicial estoppel." Hancock Bank v. Bates (In re Bates), Bankr. No. 09–51279–NPO, Adversary No. 09–05092–NPO, 2010 WL 2203634, at *14 (Bankr. S.D. Miss.

May 27, 2010). See Beiner & Chapman, at 11-12 (citing Wakefield v. SWC Sec., Inc. (In re Wakefield), 293 B.R. 372, 378 (N.D. Tex. 2003)) Oparaji, 698 F.3d at 235 (noting that judicial estoppel is "particularly" appropriate "where 'intentional self-contradiction is being used as a means of obtaining unfair advantage in a forum provided for suitors seeking justice'" (emphasis added) (quoting Kane v. Nat'l Union Fire Ins. Co., 535 F.3d 380, 385 (5th Cir. 2008)))

¶ It seems somewhat irrelevant whether any of the litigants have been unfairly disadvantaged or harmed. Garcia v. BNSF Ry. Co., 387 S.W.3d 763, 766 n.1 (Tex. Ct. App., Feb. 22, 2012);

¶Given the looseness of the judicial estoppel inquiry, courts considering whether to dismiss a claim on judicial estoppel grounds are typically guided by policy considerations. Ashley S. Deeks, Comment, Raising the Cost of Lying: Rethinking Erie for Judicial Estoppel, 64 U. Chi. L. Rev. 873, 875-76 (1997).

¶ ("[J]udicial estoppel may be applied in cases where a litigant did not ultimately prevail on his case in chief, but convinced a tribunal to rely on his representation to reach some conclusion in a prior case." Guinness PLC v. Ward, 955 F.2d 875, 899-900 (4th Cir. 1992)) . "'[I]t is winning, twice, on the basis of incompatible positions' that offends the doctrine." Astor Chauffeured Limousine Co. v. Runnfeldt Inv. Corp., 910 F.2d 1540, 1548 (7th Cir. 1990)

I. THE PRIOR REPRESENTATIONS BY DEFENDANTS ARE

¶In its most basic form, judicial estoppel operates to prevent a litigant from attempting to contradict a position which asserted in a prior judicial proceeding, whether or not the prior proceeding was against the party seeking to use the estoppel. Edwards v. Aetna Life Ins. Co., 690 F.2d 595, 598 (6th Cir. 1982) ("Judicial estoppel may be applied even if ... privity does not exist") and prevent litigants from "playing fast and loose" with the judicial system. Edwards v. Aetna Life Ins. Co., 690 F.2d 595, 598 (6th Cir. 1982)("Judicial estoppel may be applied even if ... privity does not exist."); Konstantinidis v. Chen, 626 F.2d 933, 937 (D.C. Cir. 1980) (same).Most jurisdictions that recognize judicial estoppel invoke this reason to justify the doctrine. Saano v. Central R. Co., 203 F.2d 510, 513 (3d Cir. 1953) (adopting this rationale);" Allen v. Zurich Ins. Co., 667 F.2d 1162, 1167 (4th Cir. 1982) (explaining that judicial estoppel's "function and justification is to prevent the use of 'intentional self

contradiction... as a means of obtaining unfair advantage'" (quoting Scarano, 203F.2d at 513)). Washington v. Patis, 916 F.2d 1036, 1039 (5th Cir. 1990).

FIRST FILING

¶ Exhibit A shows that February 16, 2023 I filed a motion to recall the mandate docketed February 21, 2023. Defendants did not ask the Third Circuit to decide the claims against them, except the Debtor. (ECF 96 @68)

¶ Because they did not ask the Third Circuit to review my claims against them, they cannot now argue that this court must not review the clams.

SECOND FILING

¶"January 30, 2013 Mark Hale, the CEO of Wexford signed a contract in Pittsburgh, agreeing to cooperate with Corizon Health. This contract was scanned and signed on the same date by Denel Pickering for the ADCRR in Phoenix. Weber Gallagher, Jones Skelton, Struck and Gottfried were involved." (ECF 96 @ 62)

¶"Steve Rector CEO of Corizon on July 20, 2018 signed an agreement to cooperate with Centurion in Brentwood, Tennessee and it was scanned and signed on the same date by Ken Sanchez in Phoenix for ADCRR. Struck, Renaud Drury, Quintairios Prieto and Gottfried were involved. "(ECF 96 @ 63)

¶"Steven H Wheeler, CEO of Centurion from Vienna, Virginia on May 25, 2019 signed a cooperation agreement agreeing to cooperate with Corizon. The document was cosigned in Arizona by Kenneth P. Sanchez, for ADCRR. Broening Oberg, Struck and Gottfried were involved." (ECF 96 @ 64)

¶"Bradford McLane CEO Naphcare on May 24, 2022 signed in Alabama a document agreeing to cooperate with Centurion and on the same date it was scanned and signed by Kenneth P. Sanchez, ADCRR in Phoenix. "(ECF 96 @ 65)

¶ All through the litigation in Pittsburgh and Arizona Defendants denied any such cooperation agreement existed.

THIRD FILING

¶ In CIV 18-0066RM Corizon Quintairos Prieto Wood & Boyer; Nichole Rowey; aggressively during the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. CR 186, 187, 188, 191, 195, 200, 205, 208, 209, 210, 212, 217, 220, 234, 236, 237, 238, 240, 241, 242, 245, 246, 248, 249, 250, 251, 255, 256, 257, 314, 318, 337, 352, 363, 383, 392, 414, 421, 425, 427, 434 (ECF 96 @ 81)

FOURTH FILING

¶In CIV 13-0615 TUC DCB Corizon through Joseph Scott Conlon ;Renaud Cook Drury Mesaros PA During the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. (ECF 96@ 82)

FIFTH FILING

¶In CIV 13-0140 TUC DCB Wexford Health Sources, Inc; Weber Gallagher Simpson Stapleton Fires & Newby LLP; Jones Skelton Hochuli During the litigation and the time frames when the judgment could be collaterally attacked, Defendants stated the evidence that is a subject matter of the spoliation did not exist. (ECF 96@83)

J. BANKRUPTCY ESTATE WITH AN UNADMINISTERED ASSET IS SOMEWHAT LIKE THE UNFORTUNATE PIRATES

¶A bankruptcy estate with an unadministered asset is somewhat like the unfortunate pirates. Although the estate has been closed, it is not dead. And although the estate continues to exist, it is not alive. And it cannot be either dead or alive until the unadministered asset is recovered.

¶Bankruptcy courts, in particular, "rel[y] on the representations of the debtor with respect to whether he or she has claims or interests arising out of the matters before the court." Brassfield v. Jack McLendon Furniture, Inc., 953 F. Supp. 1424, 1432 (M.D. Ala. 1996).

¶Under § 541(a) of the Bankruptcy Code, the commencement of a case creates an estate that consists of all the debtor's legal and equitable interests in property. 11 U.S.C. § 541(a)(1) (2000). Thomas W. Merrill, Property and the Right to Exclude, 77 Neb. L. Rev. 730, 750-51 (1998) ("These interests, which legally are sometimes called choses in action, are obviously regarded as property.").

¶The 1936 Restatement of Property used the term "property" as follows: "to denote legal relations between persons with respect to anything. The thing may be an object having physical existence or it may be any kind of an intangible such as a patent right or a chose in action." Restatement (First) Of Prop. ch. 1 introductory note (1936).

K. THE UNADMINISTERED ASSETS ARE

¶Counsel for the debtors should have been aware of the consequences and nuances of judicial estoppel, and informed their clients accordingly. Andrew D. Mendez, Every Counsel's Checklist: Handling a Case Involving a Plaintiff Who Has Filed Bankruptcy, 59 LA. B.J. 404, 405 (2012). It is clear by their conduct, counsel did not inform their clients.

¶Although it is impossible to tell how often nondisclosures go undetected, it appears that litigants get caught hiding valuable claims all the time. In re FV Steel & Wire Co., 349 B.R. 181, 186 (Bankr. E.D. Wis. 2006) ("[D]ebtors are frequently estopped from asserting a claim . . . when they did not list that claim in their bankruptcy schedules . . . ." (citations omitted))

¶The Debtor must also understand that even accidental failures to disclose may result in judicial estoppel. Tehum must understand that even claims lacking the traditional trappings of a lawsuit do indeed count for the purposes of judicial estoppel. In Rose v. Beverly Health & Rehab. Servs., Inc., 356 B.R. 18, 24, 25 (E.D. Cal. 2006) the court wrote: [A] "pending" claim . . . includes claims that have accrued as of the time of the bankruptcy filing regardless of whether they have been set forth in a complaint. . . . [T]he term "claim" incorporates any potential cause of action that has accrued and whose facts are sufficiently well known to the Plaintiff to indicate the existence of a potential asset. Rose, 356 B.R. at 25-26 (citations omitted

¶ Moreover, the debtor should have known that if after filing it realized it neglected to include a claim in the schedules, it must amend the schedules as promptly as possible.

Walker v. Delta Air Lines, Inc., No. Civ.A. 100CV0558-TWT, 2002 WL 32136202, at *4 (N.D. Ga. Aug. 1, 2002).

¶These attorneys were not vigilant, for "some courts view a defendant's failure to plead judicial estoppel as a waiver of the affirmative defense," Brown, at 201 (citing United States for Use of Am. Bank v. C.I.T. Constr. Inc. of Tex., 944 F.2d 253, 258 (5th Cir. 1991)).

¶Although judicial estoppel is a strong weapon for creditors to use against debtors, it is not always readily available for debtors to use against creditors. While creditors' disclosure obligations are not as stringent as those imposed upon debtors in bankruptcy, courts will not allow a creditor to change the nature of its claim in a separate proceeding to gain an unfair advantage. Oparaji, 698 F.3d at 236, with Munoz, 459 B.R. at 623. Nevertheless, Oparaji, and the presumption of advertence cases, represents a pro-creditor trend in judicial estoppel cases, which arguably further reflects what many commentators perceive to be recent pro-creditor trends in bankruptcy and debtor-creditor law generally. See, e.g., Lawrence B. Gutcho & David A. Fidler, Purchasing Claims to Block Bankruptcy "Cramdown" Plans: A New Weapon for Creditors, 115 Banking L.J. 4, 10 (1998); Richard P. Tobin, Note, Bankruptcy – Excusable Neglect – Consideration of Equitable Factors Is Permitted for Late Chapter 11 Proof of Claim Filings Under Bankruptcy Rule 9006(b)(1) to Determine if Filer's Conduct Constituted Excusable Neglect – Pioneer Inv. Servs. v. Brunswick Assocs., 113 S. Ct. 1489 (1993), 24 Seton Hall L. Rev. 1056, 1085 (1993)

¶In return for the bankruptcy relief debtors receive through gaining a discharge, the [Code] requires disclosure of all interests in property, the location of all assets, prior and ongoing business and personal transactions, and, foremost, honesty. The failure to comply with the requirements of disclosure and veracity necessarily affects the creditors, the application of the [Code], and the public's respect for the bankruptcy system as well as the judicial system as a whole. . . . The Code requires nothing less than a full and complete disclosure of any and all apparent interests of any kind. Fokkena v. Tripp (In re Tripp), 224 B.R. 95, 98 (Bankr. N.D. Iowa 1998) (citations omitted). A debtor's duty to disclose assets is therefore "ongoing." Jethroe v. Omnova Solutions, Inc., 412 F.3d 598, 600 (5th Cir. 2005)

¶"The obvious thrust of the question is to elicit a complete disclosure of all potential assets that could be marshaled to satisfy the bankruptcy estate's obligations . . . . Any more restrictive interpretation would be clearly contrary to controlling case law."

¶"Additionally, courts have ample power to punish debtors who wrongfully conceal assets" Valdez v. JDR LLC, No. CV 04-1620-PHX-JAT, 2006 WL 2038456, at *3 (D. Ariz. July 20, 2006) with sanctions, RULE 9011 conversion to a chapter 7 liquidation, CODE § 1307(c) (2012) or denial/revocation of discharge. id. § 1328(e). But the punishments do not end there: as will become apparent in the following text and footnotes, many courts have held that "[j]udicial estoppel is particularly appropriate where . . . a party fails to disclose an asset to a bankruptcy court, but then pursues a claim in a separate tribunal based on that undisclosed asset." Jethroe v. Omnova Solutions, Inc., 412 F.3d 598, 600 (5th Cir. 2005).

L. THE NON DISCLOSURE BY THE DEBTOR

WHEN AS IN THIS CASE THE DEFENDANT STANDS TO BENEFIT

¶Where a defendant stands to benefit from prior nondisclosure, a court will be more likely to find that judicial estoppel is warranted. Kane v. Nat'l Union Fire Ins. Co., 535 F.3d 380, 387 (5th Cir. 2008) (noting that judicial estoppel is warranted where "debtors st[and] to benefit directly from pursuing their [nondisclosed] claim at the expense of their creditors," but not where the debtors "stand to benefit only in the event that there is a surplus after all debts and fees have been paid"); Spicer v. Laguna Madre Oil & Gas II, LLC (In re Tex. Wyo. Drilling, Inc.), 422 B.R. 612, 635 (Bankr. N.D. Tex. 2010); see also Love v. Tyson Foods, Inc., 677 F.3d 258, 266 (5th Cir. 2012) (distinguishing Reed and finding judicial estoppel warranted because "unlike the instant case where [the debtor] could potentially share in the gains from his lawsuit, only the creditors stood to benefit in Reed").

¶-For example, in Love v. Tyson Foods, Inc., a case decided post-Reed, the Fifth Circuit held that the district court did not abuse its discretion in dismissing, on the basis of judicial estoppel, a chapter 13 debtor's civil rights action against his former employer that he failed to disclose in both his bankruptcy schedules and his chapter 13 plan. Love, 677 F.3d at 260-61. Because, under the terms of the debtor's chapter 13 plan, any potential recovery against the former employer "would go to [the debtor] to the exclusion of his creditors," Id. at 264 (citing CODE §§ 554(c), 1329 (Supp. III 2009)) the court found the case sufficiently

¶ Many courts will not hesitate to estop a debtor who stands to directly benefit from her nondisclosures in bankruptcy. Accordingly, they will impute the intent not to disclose to any

debtor with (1) knowledge of her claims and (2) the potential to benefit from their nondisclosure. Love v. Tyson Foods, Inc., 677 F.3d 258, 262 (5th Cir. 2012) Counsel should have stressed to the client not only that the client has a continuing duty to disclose any and all pending and potential lawsuits, but also that the court will likely deem advertent even an unthinking failure to disclose a cause of action.

M. AS DEFENDANTS COUNSEL AIDED THE DEBTOR IN FILING THIS FRAUDULENT BANKRUPTCY, BAD LEGAL ADVICE DOES NOT RELIEVE THE DEBTOR OF THE CONSEQUENCES OF ITS OWN ACTS AND JUDICIAL ESTOPPEL APPLIES

¶Even where a debtor fails to disclose an asset or claim on her schedules due to erroneous legal advice, many courts have not hesitated to visit the sins of the attorney upon the debtor, and have applied judicial estoppel regardless. Cannon-Stokes v. Potter, 453 F.3d 446, 448-49 (7th Cir. 2006). In the district court [the debtor] filed an affidavit asserting that her false statement on the bankruptcy schedules was the result of good-faith . . . legal advice. . . . Yet bad legal advice does not relieve the client of the consequences of her own acts. . . . Whether the bankruptcy fraud was [the debtor's lawyer's] suggestion . . . or [the debtor's] own bright idea does not matter in the end. The signature on the bankruptcy schedule is hers. The representation she made is false; she obtained the benefit of a discharge; she never tried to make the creditors whole; now she wants to contradict herself in order to win a second case. Judicial estoppel blocks any attempt to realize on this claim for her personal benefit. Id.

CONCLUSION

¶ ECF 96 should be ordered filed and Defendants objections overruled.

Respectfully submitted,

Anant Kumar Tripati

The Plaintiff hereby certifies that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all parties requesting notice/ all parties who have entered appearance.

EXHIBIT A

'zona Department of Corrections
...habilitation and Reentry

Legal Mail Log

Legal correspondence shall be opened and inspr for contraband only in the presence of the inmate (As outlined in / Department of Corrections, Rehabilitation and Reentry (ADCRR,, partment Order 914, Inmate Mail). If the inmate is not in the unit return the unopened Legal Mail to Complex Mail Room.

INIT	DATE *(mm/dd/yyyy)*
:IBOLA	02/16/2023

All metal and other contraband have been removed prior to issuing to inmate.*

Inmate Name *(Print name)*	ADCRR Number	Housing	Date *(mm/dd/yy)*	Signature	Received From / Mail To	Tracking Number	Contents	Outgoing Postage	Officer/Badge Number
RIPATI, A	102081	4D15L	02/16/23		U.S Court of Appeals 601 Maricet St #21400 Philadelphia, CA 19106				

NOTE: Shift Commander shall sign and date upon completion of all Legal/Certified Mail distribution.

SHIFT COMMANDER NAME *(Last, First M.I.) (Please print)*	SIGNATURE	DATE *(mm/dd/yyyy)*
Cpl. V. Servanti	Cpl. 1289	2-16-23

2-16-23

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 75 of 87

Arizona Department of Corrections
Rehabilitation and Reentry

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
TRUPATI Anant	102081	909	9/9/23

TO	LOCATION
MAIL Room	

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

Can You PLEASE CONFIRM You DID NOT Receive any MAIL FROM ME FROM MEYER UNKOVIC & SCOTT Pittsburgh.

During 2/17/23 AND 2/28/23.

09/09/2023

In response to your inmate letter, I Cpl Mvela D #10288 reviewed the Incoming legal mail Log.

There is no incoming Legal mail from Meyer unkovic & Scott Pittsburgh during the period of 2/17/23 to 2/28/23.

Thankyou! D. Mvela #10288

INMATE SIGNATURE	DATE (mm/dd/yyyy)
	9/9/23

Have you addressed this with Department staff? ☐ Yes ☐ No

If yes, give the staff member's name and the date you addressed with them:

(Staff Member's Name) (Please print) _____ (Date addressed) _____

Note: Using profanity, insulting, obscene, or abusive language and/or addressing staff with inappropriate names or making inappropriate remarks in this written correspondence (or verbal communication to staff concerning this correspondence), will not be tolerated and may result in no response to the correspondence and/or discipline pursuant to Department Order 803, Inmate Disciplinary Procedure.

Distribution: Original – Master File
Copy - Inmate

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 22-1861

Tripati v. Wexford Health Sources Inc.

To: Clerk

1) Suggestion of Bankruptcy received from Appellee Corizon Inc.

2) Motion by Appellant titled FRAP 41(d)(1) Application and Request for Other Relief

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In light of the suggestion of bankruptcy filed by Appellee Corizon Inc., indicating the defendant in the lower court filed a petition for relief under the Bankruptcy Code, no action will be taken on Appellant's motion. See 11 U.S.C. § 362 (actions against the debtor may not proceed during the pendency of the bankruptcy).

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: March 13, 2023
CJG/cc: Anant Kumar Tripati
Christopher J. Watson, Esq.
Joseph J. Bosick, Esq.
Holly M. Whalen, Esq.
Jason M. Yarbrough, Esq.
Rita Bustos, Esq.
Alyssa R. Illsley, Esq.
Kevin L. Nguyen, Esq.
Cassidy L. Neal, Esq.

10/18/2022	☐ 61 90 pg, 2.61 MB	PRO SE REPLY BRIEF on behalf of Appellant Anant Kumar Tripati. Certificate of Service dated 10/12/2022 by US mail. (IDR) [Entered: 10/18/2022 10:45 AM]
10/31/2022	☐ 63 1 pg, 92.04 KB	ORDER (Clerk) The motion for leave to file overlength reply brief is referred to the merits panel. (CJG) [Entered: 10/31/2022 04:42 PM]
11/28/2022	☐ 64 1 pg, 124.36 KB	CALENDARED for Monday, 12/12/2022. (AR) [Entered: 11/28/2022 05:07 PM]
12/12/2022	☐ 65 1 pg, 50.33 KB	SUBMITTED (Pro Se) on Monday, December 12, 2022. Panel: AMBRO, KRAUSE and SCIRICA, Circuit Judges. (AR) [Entered: 12/12/2022 08:07 AM]
12/15/2022	☐ 66 6 pg, 206.1 KB	NOT PRECEDENTIAL PER CURIAM OPINION Coram: AMBRO, KRAUSE and SCIRICA, Circuit Judges. Total Pages: 6. Tripati's motion for permission to file his overlength reply brief is granted. (SLC) [Entered: 12/15/2022 07:19 AM]
12/15/2022	☐ 67 5 pg, 188.43 KB	JUDGMENT, Affirmed. Costs taxed against Appellant. (SLC) [Entered: 12/15/2022 07:25 AM]
12/28/2022	☐ 68 2 pg, 172.96 KB	ECF FILER: BILL OF COSTS filed on behalf of Appellee Kelly Joan Morrissey. Certificate of Service dated 12/28/2022. Service made by US mail, ECF. [22-1861] (KLN) [Entered: 12/28/2022 02:12 PM]
12/29/2022	☐ 69 1 pg, 87.65 KB	REVIEWED & ADJUSTED Bill of Costs filed. After review, costs will be taxed in the amount of $39.33. (CJG) [Entered: 12/29/2022 08:41 AM]
01/03/2023	☐ 70 3 pg, 372.59 KB	MOTION filed by Appellant Anant Kumar Tripati for Extension of Time to File Petition for Rehearing. Response due on 01/17/2023. Certificate of Service dated 01/04/2023. Service made by ECF. (SLC) [Entered: 01/04/2023 11:04 AM]
01/05/2023	☐ 71 1 pg, 96.62 KB	ORDER (AMBRO, Circuit Judge) granting motion for extension of time to file petition for rehearing filed by Appellant Anant Kumar Tripati to file a petition for rehearing until February 15, 2023. (SLC) [Entered: 01/05/2023 10:56 AM]
01/09/2023	☐ 72 35 pg, 8.84 MB	PETITION filed by Appellant Anant Kumar Tripati for Rehearing En Banc and before Original Panel. Clerk's Office ensured service on 01/11/2023. (SLC) [Entered: 01/11/2023 08:18 AM]
02/01/2023	☐ 73 2 pg, 100.26 KB	ORDER (CHAGARES, Chief Judge, AMBRO, JORDAN, HARDIMAN, GREENAWAY JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN and SCIRICA*, Circuit Judges) denying Petition for panel and for en banc rehearing filed by Appellant Anant Kumar Tripati. Ambro, Authoring Judge. (*Judge Scirica's vote is limited to panel rehearing only.) (CJG) [Entered: 02/01/2023 01:43 PM]
02/09/2023	☐ 74 10 pg, 354.67 KB	MANDATE ISSUED. (SLC) [Entered: 02/09/2023 08:34 AM]
02/13/2023	☐ 75 4 pg, 670.56 KB	MOTION filed by Appellant Anant Kumar Tripati to Abate Time to File for Certiorari. (SLC) [Entered: 02/14/2023 08:48 AM]
02/13/2023	☐ 76 6 pg, 891.57 KB	MOTION filed by Appellant Anant Kumar Tripati for a Procedural Order as to Certiorari. (SLC) [Entered: 02/14/2023 08:49 AM]
02/17/2023	☐ 77 1 pg, 63.98 KB	ORDER (Clerk) No action will be taken on Appellant's motions as it noted that the case is closed. As to the motion for Procedural order Ordinarily, the Court does not intervene in the day-to-day operations of a prison. Appellantshould contact prison administrators with your concerns and for information on prison grievance procedures. Any inquiry regarding a writ for certiorari should be directed to the United States Supreme Court at the following address: Public Information Center, One First Street, NE, Washington, D.C. 20543-001 (SB) [Entered: 02/17/2023 10:01 AM]
02/17/2023	☐ 78 4 pg, 254.92 KB	ECF FILER: SUGGESTION OF BANKRUPTCY received from Appellee Corizon Inc. Certificate of Service dated 02/17/2023. Service made by US mail, ECF. [22-1861] (JMY) [Entered: 02/17/2023 02:24 PM]
02/21/2023	☐ 79 110 pg, 2.16 MB	MOTION filed by Appellant Anant Kumar Tripati titled FRAP 41(d)(1) Application and Request for Other Relief. Response due on 03/06/2023. Clerk's Office made service on 02/23/2023. Service made by ECF.--[Edited 03/13/2023 by CJG] (SLC) [Entered: 02/23/2023 10:38 AM]
03/13/2023	☐ 80 1 pg, 64.82 KB	ORDER (Clerk) In light of the suggestion of bankruptcy filed by Appellee Corizon Inc., indicating the defendant in the lower court filed a petition for relief under the Bankruptcy Code, no action will be taken on Appellant's motion titled FRAP 41(d)(1) application and request for other relief . See 11 U.S.C. Section: 362 (actions against the debtor may not proceed during the pendency of the bankruptcy). (CJG) [Entered: 03/13/2023 02:02 PM]
03/13/2023	☐ 81 54 pg, 2.72 MB	MOTION filed by Appellant Anant Kumar Tripati for Leave to File Completed Petition in Support of Pending Motion to Stay and Recall. (CJG) [Entered: 03/17/2023 10:18 AM]
03/21/2023	☐ 82 1 pg, 63.64 KB	ORDER (Clerk) The motion for leave to file completed petition in support of motion to stay and recall was received by the Court on March 13, 2023, after a Clerk Order taking no action on Appellant's motion to

EXHIBIT B

Inmate Account Summary

Transactions from 05/01/2023 to 06/30/2023

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 80 of 87

Inmate

Name:	TRIPATI, ANANT K
ADC #:	102081
ADC #:	102081
DOB:	1/16/1954
Status:	Active
Admitted:	12/20/1993
Released:	N/A

Funds

Account	
Spendable:	
INMATE DEBT:	
DDA:	
Wages:	
Retention:	
DDA L:	

Classifications

Religious Affiliation : Buddhist

Religious Diet : none

Phase : Phase 3

Security Level : 3

Loss of Privilege : N

Transactions

Inmate Account Summary

Transactions from 05/01/2023 to 06/30/2023

5/26/2023 1:37:38 AM	94 XFR WAGES TO SPND L2	Deduct: from 'Wages' into 'Spendable'	Wages	($7.84)
5/26/2023 1:37:38 AM	54 TRANSITION FEE LT2	Deduct: from 'Wages' into 'Common Checks - Deductions and Fees'	Wages	($0.56)
5/26/2023 1:37:38 AM	13 DDA XFR G	Deduct: from 'Wages' into 'DDA'	DDA	$2.80
5/26/2023 1:37:38 AM	13 DDA XFR G	Deduct: from 'Wages' into 'DDA'	Wages	($2.80)
5/26/2023 1:37:37 AM	15 PYRL WI L2 TR	WIPP Payroll LT $2 Transition	Wages	$11.20
5/23/2023 1:15:32 PM	46 COPY NON LGL	Y09 354 NON-LEGAL COPIES 05/23/23	Spendable	($3.80)
5/22/2023 10:17:50 AM	22 CHECK DISBURSEMENT	YUMA Y09 601 U.S. BANKRUPTCY COURT/FEE	Spendable	($350.00)
5/20/2023 12:39:50 AM	36 PMT UTILITY FEE	Pay: 5/20/2023 12:39:50 AM - 36 UTILITY FEE - Charge for Utilities	Spendable	($2.00)
5/20/2023 12:39:50 AM	36 PMT UTILITY FEE	Pay: 5/20/2023 12:39:50 AM - 36 UTILITY FEE - Charge for Utilities	INMATE DEBT	($2.00)
5/20/2023 12:39:50 AM	36 UTILITY FEE	Charge for Utilities	INMATE DEBT	$2.00
5/19/2023 7:46:42 AM	39 PMT POST LGL	Pay: 5/19/2023 9:46:42 AM - 39 LEGAL POSTAGE - Y09 345 Legal Postage 5/19/23	Spendable	($1.74)
5/19/2023 7:46:42 AM	39 PMT POST LGL	Pay: 5/19/2023 9:46:42 AM - 39 LEGAL POSTAGE - Y09 345 Legal Postage 5/19/23	INMATE DEBT	($1.74)
5/19/2023 7:46:42 AM	39 LEGAL POSTAGE	Y09 345 Legal Postage 5/19/23	INMATE DEBT	$1.74
5/17/2023 1:52:14 PM	22 CHECK DISBURSEMENT	VOID: STOP PAYMENT CK#500345543 REQUEST BY INMATE WRONG AMOUNT	Spendable	$300.00
5/16/2023 8:37:59 AM	38 PMT COPY LGL	Pay: 5/16/2023 8:37:59 AM - 38 LEGAL COPIES - Y09 333 LEGAL COPIES 05/15/23	Spendable	($1.75)
5/16/2023 8:37:59 AM	38 PMT COPY LGL	Pay: 5/16/2023 8:37:59 AM - 38 LEGAL COPIES - Y09 333 LEGAL COPIES 05/15/23	INMATE DEBT	($1.75)

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 81 of 87

EXHIBIT C

Arizona Department of Corrections
Rehabilitation and Reentry

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
TRIPATI Anant	102041	909 / UPLT	08.12.23

TO	LOCATION
LIBRARIAN	

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

You Google and gave me this Address for Mr Loan, Mr Hub Co LLC, Mr Equity Co LLC

James D. Glassenheimer
Registered Agent
1450 Brickell Avenue #1900
Miami, FL 33131

The following address was found on Florida State Bar
8-12-2023
Librarian A. Lugo

INMATE SIGNATURE	DATE (mm/dd/yyyy)
	08/12/23

Have you addressed this with Department staff? ☐ Yes ☐ No

If yes, give the staff member's name and the date you addressed with them:

(Staff Member's Name) (Please print) _____ (Date addressed) _____

Note: Using profanity, insulting, obscene, or abusive language and/or addressing staff with inappropriate names or making inappropriate remarks in this written correspondence (or verbal communication to staff concerning this correspondence), will not be tolerated and may result in no response to the correspondence and/or discipline pursuant to Department Order 803, Inmate Disciplinary Procedure.

Distribution: Original – Master File
Copy - Inmate

916-1
7/25/19

EXHIBIT D

ARIZ)EPT OF CORRECTIONS
INCO. , LEGAL MAIL

LEGAL CORRESPONDENCE SHALL BE OPENED AND INSPECTED FOR CONTRABAND ONLY IN THE PRESENCE OF THE ADC (MP 302.4). IF INMATE IS NOT ON UNIT, RETURN LETTER UNOPENED TO TH EX MAIL ROOM

DATE	INMATE NAME	ADC #	BED #	COMMENTS/TRACKING	SIGNATURE	DATE	SENDER
05/10/23							
05/10/23							
05/10/23							
05/10/23							
05/10/23	P						
05/10/23							/PHX
05/10/23							
05/10/23	TRIPATI	102081	Y09/4D15			5/10	CLERK US DIST COURT SOUTHERN DIST OF TEXAS/PO BOX 61010/HOUSTON TX 77208

SUPERVISOR SIGN: Kathleen DATE: 5/10/23 STAFF SIGN: Ramirez, E 11994 DATE: 5/10/23

CIBOLA UNIT

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 85 of 87

ARI DEPT OF CORRECTIONS
INC 3 LEGAL MAIL

LEGAL CORRESPONDENCE SHALL BE OPENED AND INSPE ONLY IN THE PRESENCE OF TH
IF INMATE IS NOT ON UNIT, RETURN LETTER UNOPENED TO

FOR CONTRABAND (ADC IMP 302.4). LEX MAIL ROOM

DATE	INMATE NAME	ADC #	BED #	COMMENTS/TRACKING	SIGNATURE	DATE	SENDER
05/30/23	TRIPATI	102081	Y09/4D15			5/30	CLERK US DIST COURT SOUTHERN DIST OF TEXAS/PO BOX 61010/HOUSTON TX 77208

SUPERVISOR SIGN: _____ DATE: 5/30/23 STAFF SIGN: _____ DATE: 5/30/23

CIBOLA UNIT

Case 23-03072 Document 150 Filed in TXSB on 09/18/23 Page 86 of 87

Inmate W.C. Dunbar
ADC # 102081
Arizona State Prison Complex Yuma
Unit Cibola
PO Box 850
Yuma AZ 85366

NEOPOST PRIORITY MAIL
09/12/2023 ComBasPrice
US POSTAGE $008.96⁰

ZIP 85349
041M11460574

United States Courts
Southern District of Texas
FILED
SEP 18 2023
Nathan Ochsner, Clerk of Court

P COMMERCIAL BASE PRICING

USPS PRIORITY MAIL®

445

SHIP TO: US BANKRUPTCY COURT
515 RUSK
HOUSTON TX 77002

US Bankruptcy Court
515 Rusk
Houston, TX 77002

USPS TRACKING #

9205 5901 5589 9200 0000 1342 54

ELECTRONIC RATE APPROVED #901558992

BOX 1 OF 1

LEGAL MAIL