IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Appeal No. 2:21-cv-04671-AB

MARY CUMMINS-COBB,

Debtor and Appellant,

v.

KONSTANTIN KHIONIDI as Trustee of the COBBS TRUST,
Plaintiff and Appellee.

ANSWERING BRIEF OF APPELLEE

On Appeal from the U.S. Bankruptcy Court for the Central District of California, Case No. 18-01066-RK (Kwan, J.)

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INTRODUCTION AND SUMMARY OF ARGUMENT

This new appeal is so frivolous and so lacking in merit that appellee Konstantin Khionidi, as Trustee of the Cobbs Trust, requests that this Court summarily dismiss this appeal. First, as appellant Cummins knows from her last appeal before this Court, there are rules to follow in preparing an appeal. One of those rules, Fed. R. Bankr. P. 8014 requires that Cummins provide this Court with an Opening Brief that contains a jurisdictional statement that shows among other things that the appeal has been timely taken from a final appealable order or judgment, which is problematic in this case, given that the denial of Cummins' "Motion to Dismiss" a case that was already closed and affirmed on appeal is both untimely as a matter of law and unlikely to be an appealable order.

Second, and perhaps most important, "a brief must contain references to the record that support the arguments advanced in the brief." *In re Stuparu*, No. 20-80105, 2020 U.S. App. LEXIS 25617, at *5 (9th Cir. Aug. 12, 2020). This requires citation to "specific testimony or documentary evidence in the record . . ." *Id.* Although Cummins includes a statement of facts, there are no citations to the *record*. Instead, without identifying what document that she is referring to, Cummins cites to "Doc #91" for the entirety of her fantastical "facts." Assuming that "Doc. #91" refers to Docket Entry No. 91 in the Adversary Proceeding, that

document is Cummins' *own Motion for Summary Judgment*, which is simply her similar rant against the judges in Texas, former judgment creditor Amanda Lollar, counsel for appellee, and of course, Mr. Khionidi, with no supporting evidence whatsoever. Her purported statement of facts is therefore unsupported by any citation to actual evidence presented in the Bankruptcy Court. "If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all evidence relevant to that finding or conclusion." *Navellier v. Sletten*, 262 F.3d 923, 948 n.13 (9th Cir. 2001). Cummins has done none of these things. Appellee therefore requests that the entire "Factual and Procedural Background" of the Opening Brief be stricken for failing to cite to any *evidence* in the record other than Cummins' own Motion for Summary Judgment memorandum.[1]

Although a more minor issue, Cummins has also failed to present a proper Appendix in support of her appeal that complies with Rule 8015(d), which

[1] Oddly, a significant portion of the alleged Factual Background is an irrelevant self-serving report on Cummins' many alleged "accomplishments." Despite her claims, she has represented to the Bankruptcy Court in her application for a fee waiver in *Cummins I* that she made less than $600 per month, which according to Cummins, was not "enough money to pay rent or utilities." *Khionidi v. Cummins*, Case 2:18-ap-01066-RK (Bankr.C.D.Cal. Feb. 13, 2020), Dkt. 122.

requires a separate Appendix, and Rule 8018(c), which requires that the Appendix have a Table of Contents, the relevant docket entries, and other parts of the record in chronological order. Cummins has done none of these, although she repeatedly refers to various documents that are not included in the Appendix. As Cummins well knows from her prior appeal to this Court, when an appellate brief is so inadequate, or the record provided so inadequate that the reviewing court was unable to review the multiple issues of fact raised, the reviewing court is justified in dismissing the appeal. *In re Morrissey,* 349 F.3d 1187 (9th Cir. 2003); *Cummins-Cobb v. Khionidi (In re Cummins-Cobb)*, No. CV 20-02149-AB, 2021 U.S. Dist. LEXIS 5154 (C.D. Cal. Jan. 7, 2021).

Finally, and substantively, Cummins' entire Opening Brief ostensibly appeals the bankruptcy court's March 18, 2021 Order denying Cummins's Motion to Dismiss Adversary Proceeding, but the reasons that she argues that the decision on the Motion to Dismiss Adversary Proceeding was wrongly decided are plainly foreclosed by both res judicata and the law of the case, after this Court affirmed the Bankruptcy Court's obviously proper entry of judgment after granting summary judgment in favor of plaintiff and appellee Konstantin Khionidi as Trustee of the Cobbs Trust.

Rather than ostensibly argue why the bankruptcy court's denial of her

"motion to dismiss adversary proceeding" was improper when the adversary proceeding had already been closed, final judgment entered and affirmed on appeal, the entirety of her Opening Brief re-argues (without any supporting evidence in the record, even if the argument was not foreclosed) that Konstantin Khionidi "doesn't exist," something that Cummins repeatedly claimed during the Adversary Proceeding with literally no evidence whatsoever.

As the Bankruptcy Judge patiently explained to Cummins in the hearing on her Motion for Reconsideration, at her improperly combined Opening Brief and Appendix, p. 57, lines 11-21, her argument regarding Mr. Khionidi was raised in the summary judgment proceedings, the Bankruptcy Court rejected that argument *and* the argument was raised in her earlier appeal and the Bankruptcy Court's judgment was affirmed by this Court. Therefore her argument is barred by res judicata *and* is now "law of the case." The time to have developed her "plaintiff doesn't exist" argument was *before* summary judgment entered, by such routine discovery practices such as taking Mr. Khionidi's deposition or making a document request for a copy of Mr. Khionidi's passport, neither of which Cummins did. What Cummins cannot do is wait until after this Court affirmed the Bankruptcy Court's entry of judgment in favor of Mr. Khionidi, file a motion to dismiss an adversary proceeding that was already closed and make unsupported

legal arguments that are clearly foreclosed by the final judgment.[2]

Summary affirmance is appropriate when a review of the record and the opening brief indicates that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982). The questions raised in this appeal could not be more "insubstantial," as they are totally and completely without merit. This Court should therefore dismiss this appeal summarily as so obviously foreclosed by this Court's decision in Cummins' first appeal as to be frivolous.

STATEMENT OF FACTS

Appellee Konstantin Khionidi is the assignee of a defamation judgment against debtor Mary Cummins in the Texas Superior Court, affirmed after appeal by the Texas Court of Appeals. *Cummins-Cobb v. Khionidi (In re Cummins-Cobb)*, No. CV 20-02149-AB, 2021 U.S. Dist. LEXIS 5154 (C.D. Cal.

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[2] Cummins' abject failure to cite to the record on appeal is perhaps best exemplified by her statement in her Opening Brief that "Original interrogatories and discovery requests were answered by and signed by Stillman and not Plaintiff (Doc #91)." Appellee does not know what (Doc #91) is, as it is not in the Appendix. However, attached to the Stillman Decl. as Exhibit 1 is a true and correct copy of the interrogatories, *verified by Mr. Khionidi* – showing that Cummins is lying to this Court by misrepresenting material facts in her Opening Brief. This exhibit is offered not in support of the Answering Brief, but only to highlight that there is no evidence in the record for Cummins' factual statement other than the appealed-from orders and a hearing transcript.

Jan. 7, 2021) ("*Cummins I*"). That judgment was domesticated in the Los Angeles Superior Court and duly assigned to appellee Khionidi. *Id.* In *Cummins I*, Cummins appealed from the bankruptcy court's entry of judgment after granting Summary Adjudication of Issues and then Partial Summary Judgment against Cummins, holding that pursuant to clear Ninth Circuit precedent, the defamation judgment was not dischargeable pursuant to 11 U.S.C. § 523(a)(6) ("willful and malicious injury"). *Id.* After the entry of final judgment, the adversary proceeding was closed.

A. *Cummins I.*

On February 10, 2020, the Bankruptcy Court denied Cummins' Motion for Summary Judgment and instead, entered summary judgment in favor of Mr. Khionidi. Germane to this appeal, the Bankruptcy Court held:

> As to Defendant's second assertion, that Plaintiff lacks legal standing to assert the claims in this case, . . . In support of her argument, Defendant made the following assertions: (1) that Plaintiff's trust agreement is not valid, (2) *that the trust agreement is a forgery*, (3) that there is no evidence that the judgment is part of the trust and (4) *that Plaintiff is a strawman who does not exist*. The evidence in support of these assertions of Defendant consists of her declaration stating that "Everything in my DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was written by me and is the truth to the best of my knowledge" and a copy of the transcript of the hearing in this case on May 29, 2019 . . . Defendant has not offered competent and admissible evidence to rebut Plaintiff's evidentiary showing of standing.

In re Cummins-Cobb, No. 2:18-ap-01066-RK, 2020 Bankr. LEXIS 358, at *39-41 (Bankr. C.D. Cal. Feb. 10, 2020)(emphasis added). Final judgment thereafter entered.

Cummins appealed the entry of judgment and pursuant to Appellee's Notice of Election, was transferred to this Court. Cummins raised the following issues on appeal: (1) whether the Texas Judgment is dischargeable; (2) whether the Texas Judgment was void; (3) *whether Appellee has no standing because he does not exist*; and (4) whether Appellee has unclean hands. *Cummins I* at *5-6 (emphasis added).

Despite repeated warnings from this Court and several motions, Cummins failed to present either a proper Opening Brief or a proper record on appeal. However, in his Answering Brief, Appellee included the proper documents necessary for the resolution of the appeal. Ultimately, after providing Cummins with two opportunities to present a proper Opening Brief and record, the court affirmed the bankruptcy court in all respects. *Id.* at *6. Although Cummins filed a Petition for Rehearing, that was denied. *Cummins I* was not appealed and is now both "law of the case" and the final judgment in Appellee's favor is res judicata on her new appeal.

B. *Cummins II.*

After the appeal was decided on January 7, 2021, Cummins then filed a "motion to dismiss Adversary Proceeding" in the Bankruptcy Court, even though the adversary proceeding was closed, final judgment entered, and affirmed on appeal. Cummins' theory was that despite raising the issue in her Motion for Summary Judgment in the Adversary Proceeding, and in *Cummins I*, the already-terminated adversary proceeding should be "dismissed" because Mr. Khionidi "doesn't exist." On February 8, 2021, the Bankruptcy Court denied her motion on the narrow technical ground that this Court had not yet ruled on her Petition for Rehearing. [Dkt. 196].

After this Court denied her Petition, she re-filed the same Motion to Dismiss Adversary Proceeding on February 26, 2021, which was denied by the Bankruptcy Court on March 18, 2021. [Appellant's Appendix, ECF pp 22-24][3]. Rejecting Cummins' basis for the Motion, the Bankruptcy Court held that

> This court's judgment affirmed on appeal determined that the Cobbs Trust was valid and plaintiff as its representative had standing to bring the adversary proceeding. Thus, the court's determinations already addressed the issue raised by defendant in her motion to dismiss regarding whether plaintiff is the real party in interest under Federal Rule of Civil Procedure 17(a). In determining that the trust is valid and that plaintiff as its representative had standing to bring the adversary proceeding, the court determines that plaintiff was the real

[3] Cummins failed to present a proper paginated Appendix, so Appellee will refer to the ECF header page numbers for clarity.

> party in interest under Federal Rules of Civil Procedure 17(a). Defendant's remedy to contest the judgment based on the court's determinations is an appeal, not a post-judgment motion to dismiss, which the court determines to lack merit.

Order Denying Motion to Dismiss, p. 2. [Appellant's App., ECF p. 23] Cummins appealed this Order in *Cummins II* on ***May 10, 2021***, approximately 52 days after the entry of the Order.[4] Undeterred, Cummins then filed a "Motion to Rehear" in the Bankruptcy Court, which was also denied on April 27, 2021 for the same reasons. [Dkt. 208, Appellant's App. No. 25-26].

In the current appeal, Cummins identifies two issues: (1) that her "motion to dismiss the adversary proceeding," filed in the bankruptcy court two months *after* this Court affirmed the Bankruptcy Court's entry of final judgment was timely (Statement of Issues on Appeal, Issue No. 1) and (2) a claim that the bankruptcy court erred in granting summary judgment because, according to Cummins, Mr. Khionidi "does not exist." (Issue Nos. 2-5). Opening Brief, p.10. Because this appeal is plainly barred by this Court's decision in *Cummins I* and Cummins never appealed that decision, four of the five identified issues on appeal are barred by the law of the case and res judicata. Issue No. 1, *i.e.*, whether her motion to

[4] On May 13, 2021, the Bankruptcy Appellate Panel issued an Order to Show Cause re Appellate Jurisdiction but the case was transferred to this Court before the BAP could rule on whether there was appellate jurisdiction.

dismiss the already closed adversary proceeding was "timely," is manifestly irrelevant, because even if it was "timely," and it was not, the Motion to Dismiss Adversary Proceeding was barred by the law of the case and res judicata as well.

ARGUMENT

I.

THE APPEAL IS BARRED BY LAW OF THE CASE AND RES JUDICATA

The entire basis of the alleged "Motion to Dismiss Adversary Proceeding" was that Mr. Khionidi "doesn't exist" and apparently, because Mr. Khionidi "doesn't exist," the Cobbs Trust must therefore be a forgery. Opening Brief, pp. 10-11. However, these exact claims were raised in Cummin's Motion for Summary Judgment, pp. 5-7. They were rejected by the Bankruptcy Court in its Order granting summary judgment in favor of Mr. Khionidi. *In re Cummins-Cobb*, No. 2:18-ap-01066-RK, 2020 Bankr. LEXIS 358 (Bankr. C.D. Cal. Feb. 10, 2020) at *40. *See also, Cummins-Cobb v. Khionidi (In re Cummins-Cobb)*, No. CV 20-02149-AB, 2021 U.S. Dist. LEXIS 5154, at *5 (C.D. Cal. Jan. 7, 2021). Obviously, the bankruptcy court's judgment was affirmed by this Court on January 7, 2021. *Id.*

A. Cummins' Appeal Is Barred By Res Judicata.

Res judicata, or "claim preclusion," "treats a judgment, once rendered, as

the full measure of relief to be accorded between the same parties on the same 'claim' or 'cause of action." *Robi v. Five Platters, Inc.*, 838 F.2d 318, 321-22 (9th Cir. 1988)). Res judicata "prevents litigation of all grounds for, *or defenses to*, recovery that were previously available to the parties, regardless of whether they were asserted or determined in the prior proceeding." *Id.* (emphasis added).

Three elements constitute a successful res judicata defense. "Res judicata is applicable whenever there is (1) an identity of claims, (2) a final judgment on the merits, and (3) privity between parties." *Tahoe-Sierra Pres. Council, Inc.v. Tahoe Reg'l Planning Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003) citing *Stratosphere Litig. L.L.C. v. Grand Casinos, Inc.*, 298 F.3d 1137, 1143 n.3 (9th Cir. 2002).

1. **There Is Plainly An Identity Of Claims.**

"Identity of claims exists when two suits arise from 'the same transactional nucleus of facts.'" *Tahoe-Sierra Pres. Council*, 322 F.3d at 1078. Although Cummins clearly relied on her "Khionidi doesn't exist" and the "trust is a forgery" nonsense in her Motion for Summary Judgment, even newly articulated claims based on the same nucleus of facts are subject to a res judicata finding if the claims could have been brought in the earlier action. As the Ninth Circuit stated in *United States ex rel. Barajas v. Northrop Corp.*, 147 F.3d 905 (9th Cir. 1998):

Res judicata bars relitigation of all grounds of recovery that were

> asserted, or could have been asserted, in a previous action between the parties, where the previous action was resolved on the merits. It is immaterial whether the claims asserted subsequent to the judgment were actually pursued in the action that led to the judgment; rather, the relevant inquiry is whether they could have been brought.

Id. at 909 (citations omitted).

Here, as discussed above, Cummins claimed in her Motion for Summary Judgment that, among other things, "the trust agreement is a forgery," and "that Plaintiff is a strawman who does not exist." *In re Cummins-Cobb*, No. 2:18-ap-01066-RK, 2020 Bankr. LEXIS 358, at *40 (Bankr. C.D. Cal. Feb. 10, 2020). The Bankruptcy Court found that Cummins had presented no evidence to support these wild contentions or to rebut Mr. Khionidi's evidence and held that Khionidi had standing to sue. *Id.* Accordingly, the Bankruptcy Court entered final judgment after summary judgment in his favor. *In re Cummins-Cobb*, No. 2020 Bankr. LEXIS 358 at *52-53; *Cummins I*, 2021 U.S. Dist. LEXIS 5154, at *5 ("Ultimately, on February 10, 2020, in an extensive order that incorporated the prior findings of fact, the Bankruptcy Court denied Cummins's Motion for Summary Judgment and granted partial summary judgment for Khionidi. See Order (Appx. 158-193)"). *Id.* "The Bankruptcy Judge held that there was no issue of fact regarding the validity of the Cobbs Trust or the Assignment of the Judgment to Khionidi as trustee, and entered partial final judgment pursuant to

Fed. R. Civ. P. 54(b)." *Id.*

The bankruptcy court's entry of final judgment in Khionidi's favor on these identical claims raised in Cummin's Motion for Summary Judgment, her appeal and in her "Motion to Dismiss Adversary Proceeding" clearly arise from the same "nucleus of facts."

2. **There Is Obviously A Final Judgment.**

*"*The Bankruptcy Judge held that there was no issue of fact regarding the validity of the Cobbs Trust or the Assignment of the Judgment to Khionidi as trustee, and entered partial final judgment pursuant to Fed. R. Civ. P. 54(b)." *Cummins I, supra; In re Cummins-Cobb*, No. 2:18-ap-01066-RK, 2020 Bankr. LEXIS 358, at *47 (Bankr. C.D. Cal. Feb. 10, 2020) ("Accordingly, there is no genuine issue of fact remaining for trial on the issue of whether or not the Cobbs Trust is a valid, revocable living trust under California law, and Defendant's Motion for Summary Judgment on this issue must be denied. . . and grants partial summary judgment in favor of Plaintiff").

3. **Privity Exists - The Parties Are Identical.**

Finally, the parties in the Adversary Proceeding, the appeals and the Motion to Dismiss Adversary proceeding are identical. Therefore, Cummins' claim is barred by res judicata. Order Denying Motion to Dismiss, p. 2. [Appellant's App.,

p. 23](“In determining that the trust is valid and that plaintiff as its representative had standing to bring the adversary proceeding, the court determines that plaintiff was the real party in interest under Federal Rules of Civil Procedure 17(a).”).

B. This Appeal Is Barred by the Law of the Case.

Although this appeal is plainly barred by res judicata, it is also barred by the “law of the case.” The “law of the case” doctrine states that the decision on a legal issue by the same or a superior court must be followed in all subsequent proceedings in the same case. *Planned Parenthood of Cent. & N. Ariz. v. Arizona*, 718 F.2d 938, 949 (9th Cir. 1983). “[I]n order to maintain consistency during the course of a single case, reconsideration of questions previously decided should be avoided.” *United States v. Mills*, 810 F.2d 907, 909 (9th Cir. 1987). For the doctrine to apply, “the issue in question must have been decided explicitly or by necessary implication in [the] previous disposition.” *Milgard Tempering, Inc. v. Selas Corp. of Am.*, 902 F.2d 703, 715 (9th Cir. 1990) (internal quotation marks omitted).

Clearly, Cummins raised her “Khionidi doesn’t exist” argument in *Cummins I* and this Court affirmed the bankruptcy court in full. Thus the issue in question in this appeal was explicitly decided by this Court sitting as an appellate court in *Cummins I* and the same bankruptcy court as well and is barred by the law of the

case.

The law-of-the-case doctrine applies "unless the evidence on a subsequent trial was substantially different, controlling authority has since made a contrary decision of the law applicable to such issues, or the decision was clearly erroneous and would work a manifest injustice." *Planned Parenthood of Cent. & N. Ariz. v. Arizona*, 718 F.2d at 949. Not only has Cummins not addressed the fact that this Court has already ruled against her on the exact issue that she raises in this appeal, but she has not presented any evidence in the bankruptcy court that would fall within the only, and limited, exception to the "law of the case" doctrine. Thus, this appeal is so insubstantial as to warrant summary affirmance of the bankruptcy court's order denying Cummins' Motion to Dismiss Adversary Proceeding.

II.

CUMMINS FAILED TO ADDRESS THE BANKRUPTCY COURT'S ORDERS

Although Cummins stated in her Notice of Appeal that she was appealing from the "Order Denying Defendant's Motion to Rehear Motion to Dismiss Adversary Proceeding 04/27/2021," Cummins does not address the order denying reconsideration of the bankruptcy court's denial of her Motion to Dismiss Adversary Proceeding at all, explain why it was an abuse of discretion or even

what the standard of review of an order denying a motion for reconsideration is. Issues not raised in appellate briefs are waived on appeal. *Laboa v. Calderon*, 224 F.3d 972, 981 n.6 (9th Cir. 2000); *See Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant's opening brief are waived); *Wilcox v. Commissioner*, 848 F.2d 1007, 1008 n.2 (9th Cir. 1988) (arguments not raised on appeal by a pro se litigant are deemed abandoned). Therefore, she has waived any argument regarding that order.[5]

As for the Order denying her Motion to Dismiss Adversary Proceeding, she fails to address how that order was improper. First, the Adversary Proceeding was

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[5] It would be frivolous in any event. A bankruptcy court's denial of a motion for reconsideration is reviewed for abuse of discretion. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010); *Tennant v. Rojas (In re Tennant)*, 318 B.R. 860, 866 (9th Cir. BAP 2004). To justify reconsideration, Cummins would have had to show facts supporting relief pursuant to Fed.R.Civ.P. 60(b) *and* that he bankruptcy court abused its discretion in denying relief. *Stokes v. Drummond (In re Stokes)*, No. MT-17-1085-FBKu, 2017 Bankr. LEXIS 3644, at *9 (B.A.P. 9th Cir. Oct. 17, 2017). Instead of evidence, Cummins simply reargued her unsupported claims already rejected by the bankruptcy court. "These arguments are not relevant to the reconsideration of the order denying the Motion to Vacate, but rather concern the underlying [] dispute between the parties." *Id.* Rule 60(c)(1) also limits such relief to one year after the entry of the order. Since the Order was entered on February 10, 2020, and Cummins' Motion to Dismiss Adversary Proceeding, to the extent that it could be construed as seeking relief pursuant to Rule 60(b)(1)-(3), was filed on February 26, 2021, more than a year after the entry of the Order, her motion would have been barred in any event.

closed after the entry of judgment and before *Cummins I* was even briefed. Cummins has not presented any cognizable theory regarding how a bankruptcy court could "dismiss" an adversary proceeding that was already closed, appealed, and the judgment affirmed on appeal.

Second, Cummins is seemingly arguing that the Bankruptcy Court should have (1) reopened the adversary proceeding based on her motion, (2) vacated its final judgment that this Court affirmed in *Cummins I* and then (3) summarily dismissed the adversary proceeding literally based on no evidence at all but Cummins' unsupported – and previously rejected – argument. But even if Cummins *had* made that argument – which she did not – it would still be barred by res judicata and law of the case. Thus, regardless of whether her Motion had been "timely," the outcome would have been the same as a matter of law. Accordingly, Cummins' issue on appeal that her Motion was "timely" is not only frivolous but is manifestly irrelevant.

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CONCLUSION

For the foregoing reasons, appellee Konstantin Khionidi respectfully requests that the bankruptcy court's orders be summarily affirmed.

Respectfully Submitted,

STILLMAN & ASSOCIATES

Dated: September 12, 2021

By:_____
Philip H. Stillman, Esq.
Attorneys for KONSTANTIN KHIONIDI, as Trustee of the COBBS TRUST

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. Bankr.P. 8015(a)(7)(B)(i), I certify that the Appellee's Answering Brief is proportionally spaced in serif font, has a typeface of 14 points, and contains 3,841 words, excluding the parts of the brief exempted by Fed. R. Bankr. P. 8015(g). This Brief was prepared using Corel WordPerfect and the word count was determined using the WordPerfect word count application.

Dated: September 12, 2021

/s/ *Philip H. Stillman*
Philip H. Stillman, Esq.

PROOF OF SERVICE

I, the undersigned, certify under penalty of perjury that on September 12, 2021 or as soon as possible thereafter, copies of the foregoing Answering Brief was served electronically by the Court's ECF notice to all persons/entities requesting special notice or otherwise entitled to the same.

By: /s/ *Philip H. Stillman*
Attorneys for Appellee Kostantin Khionidi as Trustee of the Cobbs Trust.