

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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

Date: December 28, 2021

Title: *Mary Katherine Cummins-Cobb v. Konstantin Khionidi*
In re: Cummins-Cobb, BK# 2:17-bk-24993-RK; ADV# 2:18-ap-01066-RK

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Carla Badirian
Deputy Clerk

N/A
Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Appearing

None Appearing

Proceedings: [In Chambers] ORDER AFFIRMING BANKRUPTCY COURT ORDERS

Appellant *pro se* Mary Katherine Cummins-Cobb (“Cummins” or “Appellant”) appeals the Bankruptcy Court’s March 18, 2021 Order Denying her Motion to Dismiss Adversary Proceeding, and its April 27, 2021 Order Denying Defendant’s Motion to Rehear Motion to Dismiss Adversary Proceeding.

DISCUSSION

For all of the reasons stated in the responsive brief of Appellee Konstantin Khionidi, as Trustee of the Cobbs Trust (“Appellee”), this appeal is frivolous. The Bankruptcy Court previously issued an order in the adversary proceeding denying Appellant’s Motion for Summary Judgment and granting partial summary judgment for Appellee. Appellant appealed that Order. On January 7, 2021, this Court affirmed the Bankruptcy Court’s Order, and thereafter denied Appellant’s motion for reconsideration. *See Cummins-Cobb v. Khionidi (In re Cummins-Cobb)*, No. CV 20-02149-AB (*Cummins I*), Dkt. Nos. 40, 49. Those orders are final.

Thereafter, Appellant filed in the Bankruptcy Court her Motion to Dismiss the Adversary Proceeding. However, judgment was already entered in the Adversary Proceeding, and it was affirmed by this Court. The Adversary Proceeding was closed and the judgment became final, so there was no case to dismiss.

Substantively, Appellant’s central argument—that the Bankruptcy Court erred in granting summary judgment to Appellee Mr. Khionidi because he “does not exist” and thus lacks standing—is barred by both res judicata and law of the case. Appellant raised this exact issue in the summary judgment proceedings. The Bankruptcy Court found that Mr. Khionidi did have standing, and this Court affirmed that decision on appeal. These orders are final, so the issue is clearly barred by both res judicata and law of the case. *See Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003) (elements of res judicata), and *Milgard Tempering, Inc. v. Selas Corp. of Am.*, 902 F.2d 703, 715 (9th Cir. 1990) (discussing when law of the case applies).

Even if the matters raised on appeal were not barred, the Court would summarily affirm the Bankruptcy Court’s Orders based on the deficiencies in Appellant’s briefing and appendix. *See In re O’Brien*, 312 F.3d 1135, 1137 (9th Cir. 2002) (“As with briefing inadequacies, the failure to present a sufficient record can itself serve as a basis for summary affirmance.”), and *In re Hamel*, No. ADV.07-00517, 2009 WL 7751431, at *10 (B.A.P. 9th Cir. Apr. 16, 2009) (“[A] failure to provide a sufficient record to support an informed review of the trial court’s determinations may result in either dismissal of the appeal or summary affirmance of the trial court’s judgment based upon the appellant’s inability to demonstrate error.”).

Appellant’s request for oral argument is denied, as argument will not assist in the disposition of this appeal.

For at least the above reasons, the Bankruptcy Court’s Orders are **AFFIRMED**.

IT IS SO ORDERED.

Cc: BK Court