

Dated: August 5, 2024



Daniel P. Collins
Daniel P. Collins, Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA**

In re)	Chapter 7 Proceedings
)	
PAUL F. SEIFERTH,)	Case No: 3:23-bk-08817-DPC
)	
Debtor.)	UNDER ADVISEMENT ORDER RE
)	DEBTOR’S MOTION FOR RELIEF
)	FROM JUDGMENT
)	
)	(Not for Publication – Electronic
)	Docketing ONLY) ¹
)	

Before this Court is Lawrence Warfield’s (“Trustee”) Objection to Paul Seiferth’s (“Debtor”) amended exemption claims and Debtor’s Motion for Relief from Judgment. The Court heard oral argument from both parties and then took this matter under advisement. After considering the parties’ briefs and arguments, the Court finds that Debtor is entitled to relief from judgment, and that, even if the Court did not grant this relief, Debtor’s subsequent amended exemption claims are not barred by the doctrine of claim preclusion. The Court hereby grants Debtor’s Motion and denies Trustee’s Objection. The Court’s analysis is set forth below.

I. BACKGROUND

On December 7, 2023, Debtor filed his chapter 7 bankruptcy petition, schedules, and statements. Debtor claimed his 2009 Monaco RV (“RV”) as exempt under

¹ This decision sets forth the Court’s findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052.

1 A.R.S. § 33-1101(A)(4) (“Homestead Exemption”).² On February 23, 2024, Trustee
2 filed an Objection to Exemption (“First Objection”) asserting that Debtor’s RV did not
3 qualify as a mobile home under A.R.S. § 33-1101(A)(4).³ On March 18, 2024, Debtor
4 filed a Position in Response to Trustee’s First Objection (“Position Statement”)
5 acknowledging that Debtor’s RV did not qualify for a Homestead Exemption under the
6 Arizona Supreme Court’s February 23, 2024 decision in *In re Drummond*.⁴ In his
7 Position Statement, Debtor stated that he “[would] amend his exemption to one under
8 A.R.S. § 33-1125(8)” and claim an additional exemption under A.R.S. § 33-1126(A)(1).⁵
9 On March 19, 2024, Trustee filed a Certificate of Service and No Objections
10 (“Certificate”) which certified that the objection bar date had passed, that “no objections
11 [had] been received by [Trustee’s] counsel,” and that Debtor conceded that *In re*
12 *Drummond* invalidated Debtor’s asserted Homestead Exemption.⁶

13 On March 25, 2024, the Court entered an order (“Order”)⁷ sustaining Trustee’s
14 First Objection. Eight days later, Debtor formally amended his schedules to remove his
15 Homestead Exemption claim and assert a motor vehicle exemption claim in the RV
16 pursuant to A.R.S. § 33-1125(8) (“Vehicle Exemption”).⁸ Trustee objected to Debtor’s
17 Vehicle Exemption (“Second Objection”), asserting that Debtor’s claimed Vehicle
18 Exemption was barred by claim preclusion.⁹ Debtor responded contending that his
19 Vehicle Exemption was not barred because that exemption arises under different
20 operative facts and did not involve the same type of exemption claim.¹⁰ Trustee replied.¹¹

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22 ² Administrative case docket entry (“DE”) 1.

23 ³ DE 19, pages 1–2.

24 ⁴ DE 24; *In re Drummond*, 543 P.3d 1022, 1026–27 (Ariz. 2024) (holding that motor homes do not qualify as mobile
25 homes and therefore are ineligible for homestead exemptions under A.R.S § 33-1101(A)(4)).

26 ⁵ DE 24, page 1.

⁶ DE 25; *In re Drummond*, 543 P.3d at 1026–27.

⁷ DE 34.

⁸ DE 35, pages 2–7.

⁹ DE 38, pages 1–3.

¹⁰ DE 44, pages 4–8.

¹¹ DE 46.

1 On May 23, 2024, Debtor filed a Motion for Relief from Judgment (“Rule 60(b)
2 Motion”) in which Debtor asked the Court for relief under Federal Rule of Civil
3 Procedure 60(b)(1), (3), or (6) on the grounds that: (1) the Court’s Order granting
4 Trustee’s First Objection was not limited to the relief sought and therefore constituted a
5 surprise, (2) Trustee made misrepresentations which led to the Court issuing the Order,
6 and (3) the Court has and should exercise the power to grant Debtor relief from judgment
7 to ensure an equitable result.¹² Trustee objected to the Rule 60(b) Motion.¹³ Debtor
8 responded arguing that the Court should use its discretionary power to vacate its Order
9 to “accomplish justice.”¹⁴

10 11 **II. JURISDICTION**

12 The Court has jurisdiction over this bankruptcy case and the issues described
13 pursuant to 28 U.S.C. §§ 1334 and 157(b)(2)(B).

14 15 **III. ISSUES**

16 Whether grounds exist to grant Debtor’s Rule 60(b) Motion and whether the
17 doctrine of claim preclusion bars Debtor from amending his exemption claims.

18 19 **IV. THE LAW**

20 **A. RULE 60(b) MOTION**

21 Under Federal Rule of Bankruptcy Procedure 9024 Federal Rule of Civil
22 Procedure 60 (“Rule 60”) applies in contested matters. Rule 60(b) provides, in relevant
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¹² DE 48, pages 4–6; Fed. R. Civ. P. 60(b).

26 ¹³ DE 51, page 2.

¹⁴ DE 52, page 6.

1 part:

2 On motion and just terms, the court may relieve a party or its legal
3 representative from a final judgment, order, or proceeding for the following
4 reasons:

4 (1) mistake, inadvertence, surprise, or excusable neglect;

5 ...

5 (3) fraud (whether previously called intrinsic or extrinsic),
6 misrepresentation, or misconduct by an opposing party;

6 ...

7 (6) any other reason that justifies relief.¹⁵

8 Rule 60(b)(1) surprise occurs when an event contrary to a party's understanding
9 happens as a result of confusion or misunderstanding.¹⁶ Under Rule 60(b)(3), a
10 misrepresentation occurs when an inaccurate statement or representation by a party
11 "prevented the losing party from fully and fairly presenting his case or defense."¹⁷ Rule
12 60(b)(6) is a "catch-all" provision that only applies when the reason for granting relief is
13 not covered by any other subsection set forth in Rule 60(b).¹⁸ Rule 60(b)(6) "is a grand
14 reservoir of equitable power" that gives bankruptcy courts discretionary power as courts
15 of equity to "reconsider, modify or vacate their previous orders so long as no intervening
16 rights have become vested in reliance on the orders."¹⁹ Rule 60(b)(6) provides courts
17 with the authority "adequate to enable them to vacate judgments whenever such action is
18 appropriate to accomplish justice."²⁰ In general, Rule 60(b) is meant to be remedial in
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21 ¹⁵ Fed. R. Civ. P. 60(b).

22 ¹⁶ *In re Walker*, 332 B.R. 820, 829 (Bankr. D. Nev. 2005) (noting that, under Rule 60(b)(1), a surprise "may be
23 found in circumstance[s] where there is some reason for confusion or misunderstanding by the parties."); *Hung Ha*
24 *v. McGuinness*, No. C 07-3777-SBA, 2009 U.S. Dist. LEXIS 18561, at *3 (N.D. Cal. Feb. 23, 2009); *see also Lima*
25 *v. United States Dep't of Educ.*, No. 15-00242 KSC, 2017 U.S. Dist. LEXIS 83476, at *4 (D. Haw. May 31, 2017).

26 ¹⁷ *Atchison, T. & S. F. R. Co. v. Barrett*, 246 F.2d 846, 849 (9th Cir. 1957).

¹⁸ *Delay v. Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007) (citing *Dental Servs. v. Tani*, 282 F.3d 1164, 1168 n. 8
(9th Cir. 2002)).

¹⁹ *Henson v. Fidelity National Financial, Inc.*, 943 F.3d 434, 439 (9th Cir. 2019); *see also Cohen v. Cohen (In re*
Cohen), 656 B.R. 798, 805 (B.A.P. 9th Cir. 2023).

²⁰ *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863-64 (1988) (citing *Klapprott v. United States*, 335
U.S. 601, 614-15 (1949)); *see also Kohut v. United Healthcare Ins. Co. (In re LSC Liquidation, Inc.)*, 699 F. App'x
503, 508-09 (6th Cir. 2017) ("modifying an order may be an appropriate form of relief under Rule 60(b)"); *In re*
Haddad, 572 B.R. 661, 677 (Bankr. E.D. Mich. 2017).

1 nature and, therefore, must be liberally applied by courts.²¹

2 **B. CLAIM PRECLUSION**

3 Federal Rule of Bankruptcy Procedure 1009(a) (“Bankruptcy Rule 1009(a)”)
4 allows debtors to amend their schedules “at any time before the case is closed.”²²
5 Exemption amendments to debtors’ schedules “should be liberally allowed” and
6 construed by bankruptcy courts.²³ However, the ability to amend claimed exemptions is
7 not without bounds. As the Ninth Circuit has noted:

8 To hold otherwise would not only undermine the finality of exemption orders,
9 but would considerably frustrate the trustee's duty to expeditiously close the
10 debtor's estate. Debtors can amend their exemptions as a matter of course [under
11 Bankruptcy Rule 1009(a)] so if orders denying exemptions carry no preclusive
12 weight, debtors could delay matters by claiming the same property as exempt
13 time and time again. Debtors could also decline to meaningfully press their
14 claims, and creditors would bear the brunt of such behavior, as the relitigation of
15 resolved issues would drain estate—not to mention judicial—resources. Those
16 burdens are precisely what the preclusion doctrines were designed to avoid, and
17 they remain available to the bankruptcy courts when ruling on previously denied
18 claims.²⁴

15 In context of this case, two preclusive doctrines bear mentioning: Issue Preclusion
16 (formerly known as collateral estoppel) and Claim Preclusion (formerly known as res
17 judicata).²⁵ Neither party is arguing that the Vehicle Exemption claim is barred by the
18 doctrine of issue preclusion, so this Court will focus on the doctrine of claim preclusion.

19 Claim preclusion bars litigation in a subsequent action of “any claims that were
20 raised or could have been raised in the prior action.”²⁶ For this doctrine to apply, there

21 ²¹ See *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984); see also *Butner v. Neustader*, 324 F.2d 783, 786 (9th Cir.
22 1963).

22 ²² Fed. R. Bankr. P. 1009(a).

23 ²³ *In re Magallanes*, 96 B.R. 253, 256 (B.A.P. 9th Cir. 1988); *Martinson v. Michael (In re Michael)*, 163 F.3d 526,
529 (9th Cir. 1998).

24 ²⁴ *Albert v. Golden (In re Albert)*, 998 F.3d 1088, 1092 (9th Cir. 2021) (internal citations omitted).

24 ²⁵ See *In re Berr*, 172 B.R. 299, 306 n. 4 (B.A.P. 9th Cir. 1994) (“collateral estoppel is synonymous with the
25 concept of issue preclusion [and can be] distinguished from res judicata, or claim preclusion.”) (internal
26 quotations omitted).

26 ²⁶ *W. Radio Servs. Co. v. Glickman*, 123 F.3d 1189, 1192 (9th Cir. 1997); see also *New Hampshire v. Maine*, 532
U.S. 742, 748 (2001) (holding that judgment forecloses “successive litigation of the very same claim, whether or
not relitigation of the claim raises the same issues as the earlier suit.”).

1 must be “1) an identity of claims, 2) a final judgment on the merits, and 3) identity or
2 privity between parties.”²⁷

3 Some courts have held that in certain circumstances the “principles of [claim
4 preclusion] prohibit debtor[s] from relitigating the exemptibility of the cause of action,
5 even if [they] can come up with a new theory [under a different statute].”²⁸ Claim
6 preclusion, however, should not be applied when one or both parties have “little
7 motivation or incentive” to fully litigate an issue.²⁹

8 9 **V. ANALYSIS OF THE LAW APPLIED TO THE FACTS OF THIS CASE**

10 **A. RULE 60(b) MOTION**

11 In this matter, sufficient circumstances exist for the Court to find that actual
12 confusion and misunderstanding were present between the parties and the Court. Based
13 on Debtor’s Position Statement, all parties understood that Debtor was no longer pursuing
14 the Homestead Exemption claim in the RV. All parties knew that Debtor intended to
15 amend his schedules to claim different exemptions pertaining to the RV. Debtor was
16 understandably surprised by entry of the Order, especially to the language of the Order
17 that might be construed to block subsequent exemption amendments. Based on such
18 actual confusion and misunderstanding, the Court finds that Debtor was reasonably
19 surprised by the Order within the meaning of Rule 60(b)(1).³⁰ The Court, however, finds
20 there is no basis for relief in favor of the Debtor pursuant to Rule 60(b)(3). The Debtor
21 has failed to demonstrate fraud, misrepresentation or misconduct was committed by
22 Debtor’s opponent.

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²⁷ *Glickman*, 123 F.3d at 1192.

25 ²⁸ *Warfield v. Nance (In re Nance)*, 658 B.R. 152, 163 (D. Ariz. 2024) (quoting *In re Marshall*, 244 B.R. 399, 399–
400 (Bankr. D. Minn. 1998)).

26 ²⁹ *See Lovell v. Mixon*, 719 F.2d 1373, 1377–78 (8th Cir. 1983).

³⁰ DE 24; Fed. R. Civ. P. 60(b)(1); *Lima*, 2017 U.S. Dist. LEXIS 83476, at *4.

1 Even if Rule 60(b)(1) was not satisfied, the Court nonetheless finds that there were
2 extraordinary circumstances here that warrants relief under Rule 60(b)(6). Exemptions
3 are to be liberally construed in favor of debtors. In Debtor's Position Statement, Debtor
4 promptly notified the Court and Trustee that he was withdrawing his Homestead
5 Exemption in light of the Arizona Supreme Court's recent decision in *In re Drummond*.
6 Debtor also indicated he would amend his exemptions pertinent to the RV, as allowed
7 under Bankruptcy Rule 1009(a).³¹ In hindsight, it certainly would have been more
8 efficient to clearly and forcefully announce the exemption amendment in the Position
9 Statement but all knew Debtor continued to claim the RV as exempt. Given the judicial
10 policy favoring liberal allowance of exemptions, and the fact that Debtor provided notice
11 that he was going to claim the RV as an exemption in a subsequent pleading, this Court
12 finds sufficient cause exists to justify relief in favor of Debtor under Rule 60(b)(6).

13 In view of the Court's analysis above, the Court now hereby vacates its Order.
14 Debtor has now amended his Schedules to claim the RV exempt under the Arizona
15 Vehicle Exemption. The Court's analysis could stop here but, for the sake of touching all
16 bases presented to the Court, it will now determine whether Debtor's Vehicle Exemption
17 might be barred by the doctrine of claim preclusion.

18 **B. CLAIM PRECLUSION**

19 Bankruptcy Rule 1009(a) allows debtors to amend their exemption claims "at any
20 time."³² The Trustee cites to the Arizona District Court of *In re Nance* where the court
21 limited Bankruptcy Rule 1009(a) by precluding subsequent exemption claims on the
22 same property after final orders were entered denying earlier exemptions claimed in that
23 property.³³ The case before this Court is distinguishable. The court in *In re Nance* held
24 that claim preclusion barred all future homestead exemption claims in a debtor's RV once

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³¹ DE 24; Fed. R. Bankr. P. 1009(a); *In re Drummond*, 543 P.3d at 1026–27.

26 ³² Fed. R. Bankr. P. 1009(a).

³³ *In re Nance*, 658 B.R. at 162–63.

1 final orders denied the debtor's claimed homestead exemption.³⁴ This case before the
2 Court is different because it deals with two different types of exemptions (motor vehicle
3 and homestead exemptions), whereas *Nance* dealt exclusively with the same type of
4 exemption (homestead exemptions) under different statutes.

5 Additionally, even if the facts of this case qualify under the traditional three-part
6 claim preclusion analysis, this Court finds that the doctrine should not apply here because
7 Debtor had little motivation to fully litigate all issues of exemptibility prior to the
8 issuance of the Order. Debtor understandably relied on Bankruptcy Rule 1009(a) and its
9 language which permits debtors to amend their schedules at any time in the bankruptcy
10 process. Further, Debtor had no reason to believe that he had to fully litigate the issue of
11 the Homestead Exemption after previously having notified the Court and Trustee that he
12 had withdrawn that claim. The Court finds the doctrine of claim preclusion does not apply
13 to Debtor's Vehicle Exemption claim. The Trustee's Second Objection is denied.

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15 **VI. CONCLUSION**

16 The Court grants Debtor's Motion. Issuance of this Court's Order constituted a
17 surprise to Debtor within the meaning of Rule 60(b)(1). Further, relief from the Order is
18 justified under Rule 60(b)(6). The Court also denies Trustee's Second Objection on the
19 grounds that claim preclusion does not apply in this case. The Court hereby vacates its
20 prior Order and allows Debtor's claimed RV Vehicle Exemption.

21 **ORDERED**

22 **DATED AND SIGNED ABOVE.**

23
24 **To be Noticed through the BNC to:**
25 Interested Parties

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³⁴ *Id.* at 167.