

11 U.S.C. § 1144
FRBP 9006(b)(2)
FRBP 9024
Issues on appeal
Revocation of confirmation

In re Parmenter
12/5/16

BAP #OR-15-1170-TaKuJu
BAP (aff'g Alley-no underlying written op.) 2016 WL 7189829

Debtor filed Ch. 11. A trustee was appointed. An order was entered confirming the trustee's Ch. 11 plan. Debtor unsuccessfully appealed that order. A final decree was entered and the case closed. Three years later, on Debtor's motion, the case was reopened and Debtor requested entry of discharge. A hearing was convened. Debtor did not appear. Afterwards, she filed a financial management course certificate and the Court entered an order granting her a discharge under § 1141(d). Debtor pro se appealed the discharge order.

The BAP affirmed. Debtor waived her right to contest the discharge order because she in fact requested that relief. The issues Debtor identified on appeal did not relate to the only issue before the BAP, which was whether the discharge was appropriately entered. The BAP noted it would not consider arguments on appeal that were not raised before the Bankruptcy Court. It further rejected any attempt by Debtor to attack the confirmation order on grounds of fraud, as that order was final and incapable of attack through appeal.

FILED

DEC 05 2016

NOT FOR PUBLICATION

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

**UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT**

In re:)	BAP No.	OR-15-1170-TaKuJu
)		
BARBARA K. PARMENTER,)	Bk. No.	09-60875-fra11
)		
Debtor.)		
)		
BARBARA K. PARMENTER,)		
)		
Appellant.)	MEMORANDUM*	
)		

Submitted Without Oral Argument**
on November 17, 2016

Filed - December 5, 2016

Appeal from the United States Bankruptcy Court
for the District of Oregon

Honorable Frank R. Alley, III, Bankruptcy Judge, Presiding

Appearances: Barbara K. Parmenter, pro se, on brief.

Before: TAYLOR, KURTZ, and JURY, Bankruptcy Judges.

* This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8024-1(c)(2).

** The Panel unanimously determined that the appeal was suitable for submission on the briefs and record pursuant to Rule 8019(b)(3).

1 **INTRODUCTION**

2 Debtor Barbara K. Parmenter appeals from an order granting
3 her a discharge under § 1141(d)¹ and closing her bankruptcy
4 case.

5 We AFFIRM.

6 **FACTS²**

7 Debtor filed a chapter 11 petition in March 2009. The
8 bankruptcy court subsequently appointed a chapter 11 trustee³
9 and, in May 2011, confirmed the trustee's first amended
10 chapter 11 plan. Debtor unsuccessfully appealed from the
11 confirmation order; it became final years ago. Eventually, the
12 bankruptcy court issued a final decree closing the case and
13 stating that: "upon completion of all payments under the plan,
14 the debtor must file a motion to reopen the case, pay the
15 required reopening fee (if the case is closed at the time) and
16 contemporaneously file a motion for entry of discharge on Local
17 Form #1191.3."

18 Three years later, the bankruptcy court reopened the case
19

20 ¹ Unless otherwise indicated, all chapter and section
21 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.
22 All "Rule" references are to the Federal Rules of Bankruptcy
23 Procedure.

24 ² None of the documents supplied by the Debtor in her
25 excerpts of record are relevant to the only issue on appeal. As
26 a result, we exercise our discretion to take judicial notice of
27 documents electronically filed in the bankruptcy case. See
28 Atwood v. Chase Manhattan Mortg. Co. (In re Atwood), 293 B.R.
227, 233 n.9 (9th Cir. BAP 2003).

³ Debtor unsuccessfully appealed from the trustee
appointment order.

1 on Debtor's motion. Debtor then appropriately requested entry
2 of discharge in her case. After a hearing, which Debtor did not
3 attend, and Debtor's filing of a financial management course
4 certification, the bankruptcy court entered an order granting
5 Debtor's discharge under § 1141(d) and, again, closing her case.

6 In a complete change of direction, Debtor then timely
7 appealed from the discharge order.

8 **JURISDICTION**

9 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.
10 §§ 1334 and 157(b) (2) (A). We have jurisdiction under 28 U.S.C.
11 § 158.

12 **ISSUE**

13 Whether the bankruptcy court erred in entering the
14 discharge order.

15 **STANDARDS OF REVIEW**

16 We review the bankruptcy court's findings of fact for clear
17 error and its conclusions of law de novo. Adinolfi v. Meyer
18 (In re Adinolfi), 543 B.R. 612, 614 (9th Cir. BAP 2016).

19 **DISCUSSION**

20 On appeal, Debtor primarily alleges that certain current
21 and former members of the Oregon State Bar, including the
22 bankruptcy judge, harbor ill will against her as the result of a
23 lawsuit that she filed against the state bar. Thus, Debtor
24 contends, every member of the Oregon State Bar is in conflict
25 with her, and she lacks "access to the State and Federal Courts
26 or the services of the courts in Oregon."

27 She also asserts that the bankruptcy court exceeded its
28 jurisdiction when it entered certain orders in 2010, alleges

1 theories of conspiracy and collusion with creditor Umpqua Bank,
2 mentions the suspicious involvement of Middle Eastern men "in
3 the confiscation of her properties and wealth," and claims
4 various violations of her constitutional and civil rights.
5 While we liberally construe a pro se debtor's appellate brief,
6 see Nordeen v. Bank of Am. N.A. (In re Nordeen), 495 B.R. 468,
7 483 (9th Cir. BAP 2013), Debtor's allegations wander far beyond
8 the narrow scope of this appeal and fall far short of presenting
9 any fact or legal argument supporting reversal.

10 Since Debtor does not specifically and distinctly address
11 the only issue on appeal, we may summarily affirm the bankruptcy
12 court on that basis alone. See Padgett v. Wright, 587 F.3d 983,
13 986 n.2 (9th Cir. 2009) (per curiam) (appellate court "will not
14 ordinarily consider matters on appeal that are not specifically
15 and distinctly raised and argued in appellant's opening brief").

16 Further, we do not consider arguments on appeal that were
17 not raised before the bankruptcy court. See Samson v. W.
18 Capital Partners, LLC (In re Blixseth), 684 F.3d 865, 872 n.12
19 (9th Cir. 2012). Here, Debtor did not object to the entry of
20 discharge in the bankruptcy court; indeed, she requested this
21 relief. And, she did not appear at the hearing on her motion
22 for entry of discharge. Through her action and inaction, she
23 waived the opportunity to appeal from the discharge order.

24 Finally, Debtor may actually intend a collateral attack on
25 the plan confirmation order through this appeal. As stated, the
26 plan confirmation order is now final and incapable of attack
27 through any appeal. If this is Debtor's goal, then we must
28 dismiss the appeal as we lack jurisdiction to hear it.

